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Canada Railway Legislation, Special Committee
on, 1951 (2d sess.)
SECOND SESSION OF 1951

HOUSE OF COMMONS

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SPECIAL COMMITTEE

ON

RAILWAY LEGISLATION

CHAIRMAN—Mr. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

IN RELATION TO

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933;

Bill No. 7, An Act to amend The Maritime Freight Rates Act;

Bill No. 12, An Act to amend The Railway Act.

MONDAY, NOVEMBER 5, 1951

TUESDAY, NOVEMBER 6, 1951

WITNESSES:

Mr. Hugh E. O'Donnell, K.C., Counsel, on behalf of Canadian National Railways;

Mr. F. C. S. Evans, K.C., Vice-President and General Counsel, the Canadian Pacific Railway Company.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951



SPECIAL COMMITTEE
on
RAILWAY LEGISLATION

Chairman: Mr. Hughes Cleaver

Vice-Chairman: Mr. H. B. McCulloch

and

Messrs.

Argue,
Ashbourne,
Benidickson,
Brooks,
Cavers,
Chevrier,
Churchill,
Diefenbaker,
Gillis,
Green,
Helme,

Higgins,
Johnston,
Kirk (*Digby-
Yarmouth*),
Lafontaine,
Laing,
Low,
Macdonald
(*Edmonton East*),
Macdonnell (*Greenwood*),
MacNaught,

Macnaughton,
Mott,
Mutch,
Nowlan,
Picard,
Pinard,
Riley,
Stewart (*Yorkton*),
Weaver,—31.

(Quorum 10).

ANTOINE CHASSE,
Clerk of the Committee.



ORDERS OF REFERENCE

HOUSE OF COMMONS,

FRIDAY, October 26, 1951.

Resolved,—That a Special Committee on Railway Legislation, consisting of 31 Members, to be named at a later date, be appointed to consider Bill No. 12, An Act to amend the Railway Act, Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933, Bill No. 7, An Act to amend the Maritime Freight Rates Act, and such other railway legislation as may be placed before it; and that the Committee be empowered to send for persons, papers and records, to sit while the House is sitting, report from time to time and to print such papers and evidence from day to day as may be ordered by the Committee; and that paragraph I of Standing Order 65 be suspended in relation thereto.

TUESDAY, October 30, 1951.

Ordered,—That the following Bills be referred to the said Committee:—

Bill No. 12, An Act to amend the Railway Act.

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933.

Bill No. 7, An Act to amend the Maritime Freight Rates Act.

FRIDAY, November 2, 1951.

Ordered,—That the following Members comprise the Special Committee on Railway Legislation as provided for in the Resolution passed by the House on Friday, October 26, 1951: Messrs. Argue, Ashbourne, Benidickson, Brooks, Cavers, Chevrier, Churchill, Cleaver, Diefenbaker, Gillis, Green, Helme, Higgins, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), Macdonnell (*Greenwood*), MacNaught, Macnaughton, McCulloch, Mott, Mutch, Nowlan, Picard, Pinard, Riley, Stewart (*Yorkton*), Weaver.

MONDAY, November 5, 1951.

Ordered,—That the quorum of the said Committee be reduced from 16 members to 10.

Order,—That the name of Mr. Wright be substituted for that of Mr. Gillis on the said Committee.

TUESDAY, November 6, 1951.

Ordered,—That the name of Mr. Browne (*St. John's West*) be substituted for that of Mr. Higgins; and

That the name of Mr. Gillis be substituted for that of Mr. Wright on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

SPECIAL COMMITTEE

RAILWAY LEGISLATION

MONDAY, November 5, 1951.

Ordered,—That the quorum of the said Committee be reduced from 16 members to 10.

Ordered,—That the name of Mr. Wright be substituted for that of Mr. Gillis on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

TUESDAY, November 6, 1951.

Ordered,—That the name of Mr. Browne (*St. John's West*) be substituted for that of Mr. Higgins; and

That the name of Mr. Gillis be substituted for that of Mr. Wright on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS, Room 430,

MONDAY, November 5, 1951.

The Special Committee on Railway Legislation met at 11.00 o'clock p.m.

Members present: Messrs. Argue, Ashbourne, Benidickson, Cavers, Churchill, Cleaver, Green, Helme, Johnson, Kirk (*Digby-Yarmouth*), Laing, Macdonald (*Edmonton East*), MacNaught, McCulloch, Mutch, Nowlan, Stewart (*Yorkton*), Weaver.

The Clerk of the Committee attended to the election of a Chairman.

Mr. McCulloch moved, seconded by Mr. MacNaught, that Mr. Hughes Cleaver be elected Chairman.

No other nomination having been made, the Clerk declared Mr. Cleaver elected Chairman.

The Chairman took the chair, thanked the members and invited nominations for the position of Vice-Chairman.

On motion of Mr. Kirk (*Digby-Yarmouth*), Mr. McCulloch was unanimously elected Vice-Chairman.

On motion of Mr. Macdonald (*Edmonton East*),

Resolved,—That the Committee ask the House to reduce the Committee's quorum from 16 members to 10.

On motion of Mr. Johnston,

Resolved,—That in conformity with the Order of Reference of Friday, October 26, it be ordered that 700 copies in English and 200 copies in French of the Minutes of Proceedings and Evidence be printed from day to day.

On motion of Mr. Mutch,

Resolved,—That an Agenda Sub-Committee composed of 6 members, in addition to the Chairman, be appointed, and that the selection of the members be left in the hands of the Chairman.

Whereupon, the Chairman announced that he had selected the following members to act with him on the said sub-committee, namely, Messrs. Benidickson, Gillis, Green, Low, MacNaught and Mutch.

After some discussion on the subject of the witnesses to be heard it was generally agreed that the matter be explored by the Agenda Sub-committee, who would subsequently report at the next meeting.

A further discussion took place on the question as to whether or not the Committee, following a precedent in 1940, might consider extending invitation to some members of the Senate to attend the meetings of this committee and to participate in the examination of witnesses and in the debate on the various bills referred.

After quite a lengthy debate thereon, it was agreed to let the matter stand.

At 11.45 o'clock a.m. the Committee adjourned to meet again at 11.00 o'clock a.m., Tuesday, November 6.

Room 277,

TUESDAY, November 6, 1951.

MORNING SITTING

The Committee met at 11.00 o'clock a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Cavers, Chevrier, Churchill, Cleaver, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), Macdonnell (*Greenwood*), MacNaught, Macnaughton, McCulloch, Mutch, Stewart (*Yorkton*), Weaver, Wright.

In attendance: Mr. Hugh E. O'Donnell, K.C., appearing for the C.N.R. with Mr. H. C. Friel, K.C., General Solicitor, C.N.R.; Mr. F. C. S. Evans, K.C., Vice-President and General Counsel, C.P.R.; Mr. K. D. M. Spence, Commission Counsel, C.P.R.; Mr. C. E. Jefferson, Vice-President of Traffic, C.P.R.; all of Montreal; Mr. J. J. Frawley, K.C., Edmonton, representing the Alberta Government; Mr. George A. Scott, Director, Bureau Transportation Economics, Board of Transport Commissioners; Mr. Leonard T. Knowles, Special Adviser and Mr. W. J. Matthews, K.C., Department of Transport.

The Chairman reported to the Committee that the Agenda Sub-committee had met immediately after yesterday's meeting and had agreed that the Chairman communicate immediately with the Premiers of the Provinces, who had made representations before the Royal Commission on Transportation. Also with Mr. Rand H. Matheson, Maritime Transportation Commission, Moncton, and Mr. D. A. MacPherson, K.C., Regina.

Following this, he read copies of letters and telegrams he had forwarded in conformity with the instructions of the Agenda Sub-committee. (*See today's verbatim report of Evidence*).

Mr. Hugh E. O'Donnell, K.C., appearing for the C.N.R. was invited to address the Committee. He made a brief statement and retired.

Mr. Evans, Vice President and General Counsel, C.P.R., was afterwards called. The witness made a lengthy statement and was examined thereon.

And the examination of Mr. Evans still continuing; the said examination was adjourned to the next meeting.

At 1.00 o'clock p.m., the Committee adjourned to meet again at 3.30 o'clock p.m., this day.

AFTERNOON SITTING

The Committee met at 3.30 o'clock p.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Browne (*St. John's West*), Cavers, Chevrier, Cleaver, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Low, Macdonald (*Edmonton East*), Macdonnell (*Greenwood*), MacNaught, Macnaughton, McCulloch, Mutch, Stewart (*Yorkton*), Weaver.

In attendance: The same officials as are mentioned in attendance at the morning sitting.

The adjourned examination of Mr. Evans was resumed.

And the examination of Mr. Evans still continuing; the said examination was adjourned to the next meeting.

At 5.40 o'clock p.m., the Committee adjourned to meet again at 3.30 o'clock p.m., Wednesday, November 7th.

ANTOINE CHASSÉ,
Clerk of the Committee.

REPORT TO THE HOUSE

MONDAY, November 6, 1951.

The Special Committee on Railway Legislation begs leave to present the following as its

FIRST REPORT

Your Committee recommends that its quorum be reduced from 16 members to 10.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman

(The said report was concurred in by the House on the same day).

ORGANIZATION MEETING VERBATIM REPORT

HOUSE OF COMMONS, Room 430,
NOVEMBER 5, 1951.

Mr. Hughes Cleaver, upon being elected chairman, assumed the chair.

The CHAIRMAN: Thank you, gentlemen.

Mr. MACDONALD: Mr. Chairman, I would move that the quorum be reduced to ten.

The CHAIRMAN: I wonder if you would mind waiting just one minute on that motion. We should appoint a vice-chairman for the committee.

Mr. KIRK: Mr. Chairman, I will move that Mr. Henry McCulloch be the vice-chairman of the committee.

The CHAIRMAN: Are there any other nominations?

Carried.

We now come to your motion, Mr. Macdonald, that the quorum of this committee be reduced to ten. All those in favour of the motion please signify?

Carried.

The CHAIRMAN: I noticed in the Senate debates of October 16 that a discussion took place in the Senate and it was suggested that we should invite members of the Senate to attend our committee meetings and take part in the examination and cross-examination of witnesses. A similar practice was followed some years ago in the special committee dealing with the Unemployment

Insurance Act. I wish members of the committee would think that point over while we go on with the rest of the routine and then we will bring it up for decision.

As to printing: what quantities of printing do you think we should do? We are empowered by the House to print.

Mr. KIRK: What is the usual number, Mr. Chairman?

The CHAIRMAN: Two hundred in French and seven hundred in English. This being a slightly contentious subject I was just wondering whether the printing should not be more than that. Of course, it is a specialized subject and not of as much interest to the general public as other subjects we have had.

Mr. JOHNSTON: Why not leave it at that for the moment, Mr. Chairman, and then if we need to increase the number we can do so.

The CHAIRMAN: Mr. Johnston moves that we print two hundred copies in French and seven hundred copies in English of the evidence. All those in favour of the motion?

Carried.

We should appoint an agenda committee. It is usual to have a motion appointing the committee and then to consult with the representatives of the several parties as to their choice of individual membership on that committee.

Mr. Mutch: I would suggest that we leave that to the Chairman after we pass the motion appointing the committee.

The CHAIRMAN: All those in favour of the motion by Mr. Mutch that the agenda committee be appointed and that the names be reported at our next meeting please signify? It could be done now. Mr. Green, I assume you can speak for your group?

Mr. NOWLAN: Should we not fix the number first, Mr. Chairman?

The CHAIRMAN: What about the C.C.F. group?

Mr. ARGUE: I would nominate Clarey Gillis.

The CHAIRMAN: What about Social Credit?

Mr. JOHNSTON: I would nominate Mr. Low.

The CHAIRMAN: Is Mr. Low a member of the committee?

Hon. MEMBERS: Yes.

The CHAIRMAN: Gentlemen, you have heard the motion; that we appoint an agenda committee composed of six members their names to be indicated by the chair. All those in favour of the motion please signify?

Carried.

I will now indicate the names of the members of the committee: Mr. Mutch, Mr. MacNaught, Mr. Benidickson, Mr. Gillis, Mr. Low and Mr. Green. And I would like the agenda committee to meet immediately after our adjournment today, if that is convenient.

Now, how often would the committee like to sit, twice daily?

Some Hon. MEMBERS: No, no.

The CHAIRMAN: This is the 5th of November and we have a big subject.

Mr. JOHNSTON: You are not going to finish it this session anyway.

Mr. Mutch: We can start with it that way.

Mr. JOHNSTON: I do not think we should sit while the House is sitting.

Mr. GREEN: Possibly we could decide that when we find out the work there is to be done.

The CHAIRMAN: I think that is a good idea. Perhaps we could leave it open. I think, too, where we have out of town witnesses we might possibly plan to meet their convenience and if they want to carry on twice daily no doubt that could be arranged.

Mr. GREEN: Have any requests been received for permission to give evidence?

The CHAIRMAN: No. What I had in mind on that, Mr. Green, was that we would hear both railways first; that the agenda committee would canvass the whole subject as to who should be invited to our sittings and that we should give every responsible group advice and give them to understand that they will be welcome, but that we should not solicit attendance.

Mr. GREEN: Have there been any requests received for permission to appear and be heard?

The CHAIRMAN: No. But I do think that notices should go out to all interested groups who have taken the trouble to give evidence before the commission hearings.

Mr. ARGUE: Mr. Chairman, as the Board of Transport Commissioners is the party responsible for carrying out this legislation when finally enacted do you not think we should have representation from that Board before the committee to find out just what they have in mind?

The CHAIRMAN: I would suggest that all members of the committee would pass on to their members on the agenda committee their fullest views on the subject; and if you pass that on to Mr. Gillis, your representative on the agenda committee, then that committee in arriving at its decision will have your views before it.

Mr. ARGUE: Yes. Of course, I mentioned calling the Transport Commission because I think there should be a discussion on that point.

The CHAIRMAN: I was simply answering Mr. Green's question; and I understand, Mr. Green, that the railways will both be ready tomorrow; and I suggest that we adjourn to meet at 11 o'clock tomorrow morning in this room.

Mr. MACNAUGHT: In connection with that, Mr. Chairman, there are parties from the maritimes who are interested in this committee and who should be present, but they would find it most difficult to be here tomorrow while the railways are giving their evidence. I suggest they should be here while the railways are giving evidence.

Mr. MUTCH: If the expression of opinion given a moment ago is correct that this is likely to be a lengthy business—

Mr. JOHNSTON: I cannot hear you.

Mr. MUTCH: If your suggestion given a few moments ago is correct, that this is likely to be a lengthy business, then I think it would be impractical to have those who wish to be here tomorrow while the others are making their representations.

I am speaking to the point raised a moment ago by Mr. MacNaught. We do keep a *Hansard* of these proceedings and it will be available to those who are interested—those opposed or even those supporting the railways' position if there are some—and they might prefer to have the *Hansard* report of the representations before they make their own presentations in any case. I do not think it is necessary to delay in order to have all of those who might wish to appear present and listening. That is one of the reasons, probably one of the best reasons, for having a *Hansard*.

Mr. ARGUE: Were you referring to members of the committee?

Mr. MACNAUGHT: No, I was referring particularly to the members of the Maritime Transportation Commission who I know are anxious to be here. I doubt that it will be possible for them to be here tomorrow.

Mr. CAVERS: Would they wish to be here while the railway representatives are giving evidence?

Mr. MACNAUGHT: Yes.

Mr. ARGUE: I understand that representatives from Saskatchewan are anxious to be here as well and, if my information is correct, tomorrow is just a little too soon for them as well. I would think if we could hold off a day or so we could get those interested parties here.

The CHAIRMAN: What do you think of the middle of the road suggestion that we take evidence and reserve examination and cross-examination until a later date? Members of the committee will then have the evidence in printed form and it will be available to all those other folks who are interested—available in printed form before we cross-examine witnesses.

Mr. ARGUE: All we would hear then would be statements of the railways' position from the railway representatives?

The CHAIRMAN: Statements and whatever questions members wish to ask at the time the statements are presented, arising out of the statements. We would reserve the right to further questioning on call of the chair. I would undertake to recall all of those witnesses for further examination.

Mr. MACNAUGHT: That is perfectly satisfactory to me.

Mr. MUTCH: It would save time.

Mr. MACNAUGHT: That is fine.

The CHAIRMAN: Now you have had a few minutes to think over the suggestion in regard to the Senate, what is the feeling of the committee?

Mr. MUTCH: I did not hear that, I was away.

Mr. BENIDICKSON: The suggestion is that we follow a precedent that was followed in 1940 when a House of Commons committee was discussing proposals for unemployment insurance. Mr. Chasse, the clerk of the committee, has given me a copy of the resolution of that year to the House of Commons committee which reads this way:

Resolved that an invitation be extended to the honourable members of the Senate to attend the meetings of this committee and to participate in the examination of witnesses and in the debate on the various clauses.

I would be prepared to make a motion of that kind right now with respect to this subject. There is, of course, no reason why the Senate could not have its own committee, but you can appreciate that the work of a committee of this kind is very laborious. I would be inclined to think if we can save repeating the investigation through that means, that it would be to the advantage of all concerned to do so.

Mr. GREEN: Mr. Chairman, as I understood the wording of that resolution it would enable any of the senators to come here and take part in the cross-examination and in the discussion. It does seem to me that that is opening up a pretty wide field.

We have a very limited time to deal with these bills and I would hope they would go through the House this session. If we are to have eighty senators given the right to come in here and cross-examine and take part in the debates it seems to me this committee is going to be in a very difficult position. It will be very, very difficult for this committee to finish its job. If the senators are invited I think there should be a limit on the number. I do not see why they cannot have their own committee. They will have to consider these bills anyway in the Senate. They have a railway committee, an outstanding committee of their own on railways, and I think there is a good deal to be said for letting us do our job on these bills and then letting the Senate do its work rather than getting the two all mixed up—especially as we are not in a normal session. If we had months to do this work it might be different; but we have a very limited time and I think we ought to get right down to brass tacks and get on with these bills and let the Senate deal with them in the regular way.

I am not taking sides one way or another but I am putting those thoughts forward.

Mr. MUTCH: Is there not a standing committee on railways or transportation in the Senate? Certainly, if you give an invitation in my view it should be restricted to the members of that committee. It does not require eighty senators. I can think of a couple of them who, if they were asked, could keep us here until next July.

Mr. GREEN: In any event there are many of our members who might like to be on this committee but some parts of the country are not represented at all. If we throw it open to the Senate it seems to be going too far.

Mr. McCULLOCH: I certainly agree with Mr. Green.

The CHAIRMAN: On the last occasion it is my information that the total number of questions asked by members of the Senate was twenty-four.

Mr. GREEN: Then why bring them in?

The CHAIRMAN: In answer to that, Mr. Green, I believe it might have been felt in the Senate that if they had this opportunity to cross-examine our witnesses it would speed up rather than delay—it might save the necessity of a full-dress repeat Senate hearing of the work we have done. If the Senate had the right to attend and to cross-examine witnesses the Senate might be content to pass this legislation without hearing witnesses.

Mr. STEWART: How would it be to suggest to the Senate that they indicate to us the number that they would have here representing them and then we will deal with it at the next meeting.

Mr. GREEN: Had it been the intention of the government to have this matter dealt with by a joint committee that would have been done in the setting up of the committee—just as they are setting up a joint committee to consider the question of resale prices. It seems to me if this is to be a joint committee then let it be a joint committee in the regular way and we will all know where we are. To have a sort of informal joint committee can only lead to complications.

The CHAIRMAN: We have had a reasonably full discussion by the committee. Shall we leave our decision until the next meeting? Usually, when committee members have had time to think over things we arrive at a pretty good conclusion.

Mr. STEWART: The Senate might indicate how many they want to have present.

The CHAIRMAN: In the meantime I shall have a full discussion with them.

Mr. BENEDICKSON: I would agree to the suggestion or amendment to my motion indicating that only members of their committee on Transport and Communications be invited.

The CHAIRMAN: We will leave that matter just as it is at the moment. I am told that this room will not be available for our meeting tomorrow so Mr. Cavers moves that we adjourn to meet tomorrow morning at 11 o'clock in the railway committee room. All those in favour?

Carried.

The meeting adjourned.

EVIDENCE

NOVEMBER 6, 1951.

11:00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. I would first like to put on the record the copy of a telegram sent to each of the provincial premiers, who made representations to the royal commission, that is, all excepting Ontario and Quebec; and also I would like to put on the record the copy of a letter which has already been sent to the provincial premiers. Shall I dispense with the reading, or would you rather that I read them?

Mr. JOHNSTON: Read them into the record so we will know what they are.

The CHAIRMAN: The wires are as follows:

I am instructed by the House of Commons Special Committee on Railway Legislation to advise you that the committee will commence its hearings tomorrow at Ottawa. Letter is following giving you copy of proposed legislation and further particulars. Please advise me if your government wishes to make any representations in addition to those already made to the Royal Commission on Transportation.

The telegrams are signed by the chairman. And the letter which has also been sent reads as follows:

Pursuant to wire which I sent you today, I herewith enclose copy of three bills which have been referred to the House of Commons Special Committee on Railway Legislation.

The committee has decided that there is nothing to be gained by repetition of evidence already given to the Royal Commission on Transportation and that the evidence to be now given should, as far as possible, be confined to the effects, beneficial and otherwise, which will result from the proposed legislation.

Assuming that your government will wish to be heard, I would suggest that it will be helpful if your material is made available as promptly as possible and, in any event, sometime this month.

Also, as instructed by the agenda sub-committee, I sent wires to Mr. Rand H. Matheson and Mr. M. A. MacPherson which read as follows:

I am instructed by the House of Commons Special Committee on Railway Legislation to advise you that the committee will commence hearing evidence tomorrow.

Mr. JOHNSTON: Mr. Chairman, in that letter which you sent to the provinces, you asked that the material be forwarded as soon as possible. That does not bar them from making personal representations and reading their briefs into the record?

The CHAIRMAN: Oh no. We have with us this morning—since the committee agreed yesterday that we ask the Canadian National Railways to proceed first—we have with us Mr. H. C. Friel, K.C., General Solicitor of the Canadian National Railways, and Mr. Hugh E. O'Donnell, K.C., counsel appearing for the CNR. Mr. Friel or Mr. O'Donnell may speak first.

Mr. HUGH E. O'DONNELL, K.C.: Mr. Chairman, I appear with my learned friend Mr. Friel, on behalf of the Canadian National Railways.

The CHAIRMAN: I wonder if you would care to come to the table where the committee will see you a little better. It is quite all right for you to remain seated.

Mr. O'DONNELL: Thank you, Mr. Chairman.

The CHAIRMAN: Order, gentlemen. This is a very difficult room to hear in. We could not get room 430 this morning.

Mr. O'DONNELL: Mr. Chairman and members of the committee, I understand from the chairman that all three bills are before the committee, that is, bills Nos. 12, 6, and 7. According to my instructions I am to say that in principle the Canadian National Railways have no objection to these bills, and have no representations to make with respect to them at this point. The bills, I understand, tend to reflect the recommendations of the royal commission; and at this point we have no representations to make with respect to them.

The CHAIRMAN: What about the other bills?

Mr. O'DONNELL: I grouped the three bills together, Mr. Chairman, because I understood that the whole three were before the committee. It might be, of course, that with respect to one or two of them, at a later point we might have something to say. But, in principle, we have no objection to them.

The CHAIRMAN: We have before the committee, for the Canadian Pacific Railway, Mr. F. C. S. Evans, K.C., Vice President and General Counsel, and Mr. K. D. M. Spence. Mr. Evans, would you care to lead off?

Mr. Evans, K.C. (Vice President and General Counsel of the Canadian Pacific Railway Company):

Mr. Chairman, I have with me Mr. C. E. Jefferson, Vice President of Traffic, and I would like to have him sitting at my right, if it is the pleasure of the committee.

The CHAIRMAN: Very well.

Mr. EVANS: Mr. Chairman, and members of the committee: First may I say that my representations to you will have relation entirely to Bill 12, but before I proceed, may I make some preliminary observations.

I saw in *Hansard* the wish of the minister which I respect, of course, that there should be no attempt to repeat what has been said before the royal commission. But I ask your indulgence to this extent that it may be necessary to examine some of the recommendations of the commission to see whether the language of the bills can be changed and still do justice to the principles which the royal commission recommended.

Now, my first general observation is that this bill contains a good deal more than merely a provision for equalization. Canadian Pacific desires to be understood as having no objection whatever in principle to equalization as far as that can reasonably be achieved. There are, however, collateral provisions in the bill to which we are opposed in principle, and it is with regard to them that we will have specific suggestions to make.

With regard to those provisions to which we are opposed in principle, I desire to make it clear that we are not here asking this committee to sit in appeal as it were from the recommendations of the royal commission. Some of you may have the impression that we have had our day in court, that the commission has ruled against our contentions, and that we should take our medicine. That impression, if it exists, would be a mistaken one in my respectful submission. For the most part, the recommendations of the commission which we challenge

in principle are among those which the commission itself made by way of a compromise of conflicting views. These compromise measures were in some cases not even discussed before the commission, and they are in my submission measures which, had they been discussed before the commission, could, in my respectful submission, be shown to have been unsound in many respects. This, therefore, is our first opportunity of calling into question the desirability of such amendments.

I would not want to leave the impression that we see nothing good in the recommendations of the royal commission. In fact, there are many constructive suggestions in them. Secondly, let me say as earnestly as I can that Canadian Pacific is not here in any attempt to be obstructive. It would welcome any solution of the controversy over the freight rate structure which is sound and reasonable.

After all, Canadian Pacific has got to live in harmony with the people with whom it does business. What is of benefit to Canada is of benefit to the Canadian Pacific and to those who use its services.

Now then, it is therefore in my interests and in the interests of Canadian Pacific to make to you only those suggestions which I believe are soundly constructive and which will help this committee in reaching a decision as to what should be in the bill.

Now then, there is another preliminary observation and it is that in my submission we ought to approach the amendment of the Railway Act with certain clear cut principles in mind. Parliament has put into the hands of the Board of Transport Commissioners broad powers of regulation of the railways. The scheme of the Act will be defeated if we specify with too great particularity how the board is to proceed in exercising those powers. Indeed, the Chairman of the Royal Commission, the Hon. Mr. Turgeon, said this at page 21543 to counsel:

The usual thing with a board of that sort, generality is a better rule to be governed by than particularity.

We ought not, I submit, let ourselves fall into the error of directing the board in a statute to perform its duties in a particular way. The board was created by parliament in order that there might be a body with the time and experience to deal with the many problems that are involved in dealing with railway rates with which in the very nature of things, parliament would be unable to deal. An administrative tribunal should have broad discretions which can be adapted to any circumstance. It is manifestly impossible to draft a statute which can spell out how the board is to proceed in all circumstances.

My general submission therefore is: Do not amend if the power is already there. If it is not, then amend in general and not specific terms so that the board may deal with each set of circumstances as the facts of a particular case may warrant.

Fourthly, Canadian Pacific is not against reform either in the rate structure or in the Railway Act. It submits that reform need not be revolution and it respectfully submits that revolution and not reform is the basis of many parts of the bill now before you. And I am not talking about equalization.

A freight rate structure adapted to the needs of a complex economic system such as that existing in this country must itself be complex, and any plan to simplify the freight rate structure may well have most unsettling economic results unless it is worked out with the greatest care. While we are in full sympathy with the desire to simplify, our hope is that this committee will not assume that legislation of itself is the answer to this problem. If, therefore, in the discussion of this bill we seem critical of certain of these provisions, it is because with the help of

those who have spent their lives studying the adjustment of freight rates to the needs of traffic, we foresee some of the pitfalls in the proposed legislation.

Finally I would like to say this: that one of the difficulties with all questions relating to freight rates is that since they are complex, the superficial view is quite likely to be wrong. I say that with the greatest respect. It is so easy to criticize. I am not one who thinks it is wrong to criticize. But I do say that much of the criticism we have heard in recent years is mistaken and results from a misunderstanding of matters relating to the function of the board and the scheme of regulation under the Railway Act.

Now then the creed of Canadian Pacific with regard to this whole question of regulation may be shortly stated to be this: It is certainly not in the Canadian Pacific's interest to be bucking the people, and I am going to suggest to you that we are here trying to be constructive. Now, the other branch of my creed or of my company's creed in the matter of regulation is that the true objective of regulation—or at least in my submission it should be the true objective—is to impose only that restraint upon management which is admittedly necessary to carry out the use of any monopoly power that the railway company may have.

Now then, I am going to submit to you that the purpose of regulation—and this is basic to understanding my later submissions to you—is that where there is monopoly power existing, and it still exists in some parts of the country, regulation steps in to take the place of competition. In other words, where competition would be necessary to curb monopoly, regulation steps in to curb that monopoly. But having done so, I am going to submit to you that regulation ought not to be imposed so as to confer upon the public tribunal powers of management without the responsibility that goes with management. Power and responsibility in my respectful submission can never be separated if the public are to be adequately served.

Now then, I shall turn to the first subject on which I want to address you specifically. There are three clauses in the bill which have as their main function not equalization as such but the abolition of so-called standard tariffs. Canadian Pacific is opposed to those clauses which are intended to give effect to the recommendation of the royal commission at page 83 of its report, that the standard rates be abolished, and I oppose them for the following reasons which I propose, with your permission, to elaborate.

First, they are unnecessary for the accomplishment of the purpose which the commission apparently had in mind. Second, the clauses as drafted are unnecessarily complicated and involve rewriting in entirely new form the sections of the Railway Act which have been understood by the railways and by the board after many years of practical experience and decisions under them. Third, the abolition of the standard rates by a process of rewriting sections 328 to 331 inclusive of the Railway Act will leave a loophole in the Act with the implications of far-reaching character which the commission itself condemned in another part of its report.

The recommendation of the royal commission and the discussion of the subject of standard mileage rates in the report do not, in my submission, make clear the position either of the provincial governments or of the Canadian Pacific on this question. Moreover, I submit that the bill goes farther than contended for by those whose complaints led to the recommendation. Standard mileage class rates are the so-called ceiling rates which all railways are required to publish and to have approved by the board under the provisions of Section 330 of the Railway Act. And when I say "approved," I mean they are in a very special category and must have prior approval before they can come into effect; and in fact, under the Act as it now stands, no railway can make any charge to the public in respect to services without first having filed and having approved a standard tariff. That is the law as it stands.

Now then, the object which the commission had in mind was to do away with these rates because practically no traffic moved on them, and because they have outlived, as the commission said, whatever usefulness they may once have had. It is true that very little traffic moves under these rates at the present time. This means that practically all the traffic of the railways in Canada moves at rates which are lower than standard rates. One would have thought that it would be an occasion for celebration to find that such a small proportion of the traffic moves on these ceiling rates. But instead, the royal commission, mistakenly, I think, concluded that this was a reason for abolishing such rates.

Now, I want to put that before you because that is the only reason the royal commission gave for abolishing these rates, and I want to show you how the method which this bill contains for abolishing them may lead to other difficulties.

Now, while I shall go in a moment to the very real need that exists for retaining the standard rates in the Act, I would like first to point out how simple a matter it would be for the present sections of the Act to be left undisturbed, at the same time accomplishing the object which the royal commission wanted to achieve.

Later sections of this bill provide for equalization throughout Canada of the class rates. When, under this plan, new equalized class rate scales have been put into effect, it would be a very simple matter to use those scales as the ceiling rates, and, whether you call them ceiling rates or standard rates in my respectful submission makes no difference. There is no magic in the word "standard" and I suggest to this committee that the provisions with respect to standard rates in the Act can be retained and the name "standard" or whatever substitute may be adopted, applied to these new scales when the Board comes around to approving them. That can be done as far as this particular aspect of the bill is concerned without a single amendment to the Railway Act.

I make that proposal now and I suggest that what have proved to be very difficult suggestions to draft are in no way necessary to give effect to the spirit of the commission's recommendations. If the new equalized or class rates became standard rates then the reason given by the commission that practically no traffic moved on them would no longer exist. In fact a very large amount of traffic would move at the new ceiling rates because the sum total of traffic moved at class rates is very much more than moves now at standard rates. At the same time there would be preserved in the Act the safeguard which now exists against what we have come to call reparations. That practice is used in the United States, and the practice of having standard rates is a very necessary function in order to prevent this question of reparations arising.

I do not believe that this proposal conflicts in any way with the real purpose that the western provinces desire to accomplish as expressed in their submissions to the royal commission. Now, the commission, after having found that the rates had, because of very little use, outlived their usefulness, goes on at page 83 of the report to say this:

All the western provinces as well as other parties appearing before the commission asked that in any event these rates be made uniform across the country. Manitoba and Alberta went further and suggested that they be abolished and that the traffic presently moving under them be hauled under rates established by a uniform distributing or town tariff scale, which would then become the "ceiling" rates.

That is the important part of that quotation. Manitoba and Alberta thought that these new equalized rates would be the ceiling rates. Now there is this further quotation, carrying on:

The carriers made no serious objection to the proposal to abolish the standard mileage class rates. They did state, however, that these rates are the "key" on which other rates are based and that they are necessary to preserve flexibility in the rate structure.

Now, that is the submission by the commission that I respectfully suggest requires to be examined in some detail. In the first place it is true that the western provinces asked for uniformity in these rates and, if uniformity means equalization, the Canadian Pacific is perfectly willing that the rates be equalized. In fact, it has already indicated this both to the Board of Transport Commissioners and to the royal commission. However, the statement that Manitoba and Alberta suggested that the standard rates should be abolished must be examined in the light of their submissions.

It is my contention that they did not ask that the standard rates be abolished the way it is done in this bill. Manitoba did propose the abolition of standard rates in its brief but when it put forward to the commission the amendments to the Railway Act it had desired to support, it offered amendments expressly maintaining standard rates—and so did my friend Mr. Frawley from Alberta. Similarly, Alberta in offering amendments made suggestions that expressly retained the standard tariffs.

Now, in view of the fact that none of the provincial counsel, including counsel for the provinces of Alberta and Manitoba, when asked to do so presented an amendment abolishing standard tariffs, it is perhaps natural to find that no particular argument was made by the railways on the point. Mr. Sinclair, who presented the argument for the Canadian Pacific on that point, dealt with the matter rather casually because, although it had been dealt with by counsel in the original submission, and although Alberta counsel made a suggestion in his argument that could be interpreted by the commission as asking for the abolition of standard tariffs, the amendments proposed by them did not do so.

Under those circumstances, it is my submission to you that the commission in its report apparently was acting under a misapprehension as to what the contentions were and as to the seriousness of the recommendations.

The CHAIRMAN: May I interrupt you just for a moment?

Mr. EVANS: Yes, surely.

The CHAIRMAN: I am wondering just how much farther you would like to go in your criticism and explanation of the grounds that led the Commissioner to bring in his report, because if I sense the wish of this committee correctly it is this: we are not sitting as a court of appeal on the report of the Royal Commission on Transportation. We are interested in learning from you and all others the impact or the result which will flow from the legislation referred to this committee by parliament. If you intend to go much farther along that line I would feel we would be opening the door and we would be unfair to those who follow if we did not allow them to meet the arguments you are putting up by way of appeal from the royal commission.

Mr. EVANS: I agree but may I say this, Mr. Chairman: I am going to show, sir, if I may, that had the royal commission had before it the thing which I see in this recommendation I am going to suggest that they would not have made the recommendation they did, because the subject was not discussed.

The CHAIRMAN: I wonder if we could not reach common ground and if you cannot accomplish the same purpose without opening up all of this highly contentious discussion. I am wondering if you cannot accomplish the purpose you wish to accomplish by advising the committee on the ways in which this proposed legislation will harm the C.P.R.

Mr. EVANS: I am in your hands.

The CHAIRMAN: I wonder if you would do it that way?

Mr. EVANS: I would be glad to.

The CHAIRMAN: It is not at all fair if we let you attack the proposals made by Alberta or by Manitoba on the ground that the Commission did not hear you in reply. We have then to let all these other bodies do the same thing.

Mr. EVANS: I will stop that now. All I wanted to say, and I was not attacking what the provinces said—

The CHAIRMAN: I do not say you are offensively attacking them but you are attacking them and we will have to let them answer. Parliament has referred to this committee certain legislation and we want to know the impact of that legislation on the economy of your company.

Mr. EVANS: I would be very glad to give you that.

Mr. MACDONNELL: Mr. Chairman, may I ask a question? Could I understand what you mean by saying it is unnecessary to refer to all that was said before the commission? That is all right, but it is very well for us who are trying to understand this problem to have the background drawn to our attention and to cover anything that might seem to be inconsistent in the legislation and the report of the commission itself—provided the witness does not go behind the written recommendations.

The CHAIRMAN: That is why I let the witness proceed along his present line of reasoning, but I do think we have reached the point where we are either going to do the work of the royal commission all over again or we are going to do the work that parliament instructed us to do—to review this legislation.

Mr. MACDONNELL: But the witness is not precluded from referring to it?

The CHAIRMAN: No, but I think he should address his argument to the point where the economy of the C.P.R. is going to be harmed by the legislation before us.

Mr. Low: May I suggest that when anybody in this committee speaks they speak up so we can hear. It is not a private conversation between you and Mr. Macdonnell.

The CHAIRMAN: I apologize and I will try not repeat the offence.

Mr. EVANS: I apologize, and I do not intend to do this very much, but I felt in that particular case I had to show that we could carry out the spirit of the commission's recommendations without doing what this bill does.

I am coming to the principal point in the argument. The reason for maintaining standard rates or ceiling rates which must have prior approval is very important. Those of you who have read the commission's report will recall it had before it a recommendation regarding the Board awarding what has come to be known as reparations. Reparations may be described as damages for breach of duty to maintain just and reasonable rates—damages awarded against a railway company.

The Canadian Pacific submits that prior approval of ceiling or standard rates is protection against such claims and should still be required. The remedy of reparations is available in the United States if ordered by the Interstate Commerce Commission; and when a shipper is able to demonstrate to the commission that the rate is unreasonably high the commission may fix the rate at a reasonable level and, if it sees fit, order the railway company to pay damages to the shipper for past periods when the shipper paid charges at the higher rate.

I need not deal at length with this because the legal questions are somewhat involved but primarily it is legalized rebate and is subject to abuse.

The royal commission at pages 119 and 120 of its report deals with the subject in the following words:

The importation of such a practice into our railway law would not be a beneficial one. There is no room in our rate structure for the imposition of something which virtually amounts to retroactive rebates. There would be a danger of great instability in the whole mechanism of our rates if such a practice were instituted in Canada.

That is what the royal commission said after considering this question of reparation.

Now, the standard rates provide a barrier to such claims in Canada. This is because standard rates cannot be put into effect without prior approval to the Board, and having been put into effect cannot be changed without such approval. Now, prior approval of the Board is equivalent to a finding that the rates as approved are just and reasonable and they cannot be held unjust and unreasonable retroactively. The Board, of course, can change them and declare them to be unreasonable for the future.

Now, the whole question of reparations is, if you do not have prior approval of something which is just and reasonable, who is to say how far back the claimant will want to go to get these rebates. Under the amendments now proposed prior approval of any ceiling rates is abolished. Thus, no rates filed by the railway can be said to be approved as just and reasonable and, if at any time in the future the Board should require the railways to reduce them on the ground that they are unreasonably high, it may be possible for a shipper who has paid the higher rates in the past to sue the railway and recover damages on the prior charges.

The seriousness of this is beyond question. The railways in the United States today are facing suits for reparations which, if granted, would require the railways to pay some \$2 billion, and that judgment, needless to say, would bankrupt all the railways in the United States. That kind of litigation, going back in the past and having damages awarded because the rates were too high in the past is, in my submission, wrong and in the commission's view also wrong. Either the rates are just and reasonable or they are not. If they are not just and reasonable the Board can decide if they are to be reduced. If they are to be reduced that is a sufficient remedy in the view of the Canadian Pacific and apparently also in the view of the royal commission. Therefore, I say to you the abolition of the standard tariffs accompanied by failure to substitute need for prior approval of the ceiling rates may give rise to the very kind of thing the royal commission decided would be improper.

Now it may be argued that in any case the Board would not have the authority to award reparations, but whether that is so or not the courts would have power. My submission to this committee is, it is unnecessary to amend the Railway Act at all in order to abolish the present ceiling rates.

The CHAIRMAN: Would you mind giving me the section reference of the legislation before us which in your opinion empowers anyone to award reparations?

Mr. EVANS: There is no such section but what I would say to you, sir, is this: it removes Section 330 from the Railway Act—the section under which the standard rates must have prior approval.

Now, what I am saying to you, sir, is that having removed that section which requires prior approval and substituting for it other sections which make no provision for prior approval, we have nothing in our tariffs or orders of the Board which precludes someone coming forward and saying those rates are unjust and unreasonable—and, if the Board finds that is so, it may find they have been unjust and unreasonable for five years past.

The CHAIRMAN: Even should they find that, where is the section of the Act that allows anyone or any court to award reparations?

Mr. EVANS: There is no such section but it is an inherent jurisdiction of the court to award damages for breach of duty. The theory on which it proceeds in the United States is that the railways are under a duty at all times to have just and reasonable rates and if they fail in that duty then damages can be awarded for failure. In the Interstate Commerce Commission Act there is a section which authorizes the commission to do that.

The CHAIRMAN: We have no such section?

Mr. EVANS: No, we have no such section but whether the Board could do it or not the courts might, and my fear is if this is left as it is the courts may award this kind of reparation against the railways. I am going to make some alternative suggestions to you but the point I want to make is that the commission quite obviously never intended that the question of reparations should be open and in fact it recommended against it—and that is why it makes it so difficult for me to live within your ruling. I doubt if the commission thought of the possibility, and if it had been argued we would have told them. In my submission that loophole is there.

The CHAIRMAN: I do not want to interrupt you unduly but am I correct in assuming that there is no express legislation allowing any court or any commission to award reparations, but you fear that may occur?

Mr. EVANS: Yes, sir.

Mr. JOHNSTON: How are you going to change over to the recommendations if you abide by your ruling of a moment ago; aren't we then getting a little far away from that at the moment?

Mr. LAING: Mr. Chairman, could Mr. Evans pinpoint the two or three sections to which he referred? I think he referred to three of them as being the object of his objections. Could he do that for us now?

Mr. EVANS: Yes, they are in clause 7. As you will see, clause 7 repeals sections 328 to 332 of the Railway Act; and sections 328 to 332 of the Railway Act are the sections that deal with the present kinds of tariffs that the railway is authorized to issue.

The CHAIRMAN: The approved rates.

Mr. EVANS: Well, not only the approved rates but all three kinds of rates. I want to be as helpful as I can in this matter, I have absolutely nothing to conceal—328 designates the three kinds of tariffs the railway may have; and you will see there that there is a class rate, a commodity rate and a competitive rate. 329 defines what these different kinds of tariffs are and 330 is the section or the provision under which prior approval of the Board is required for the standard rates. Prior approval is not required for the other kinds, there is only one of the three kinds requiring prior approval. But you see my point is a very simple one; prior approval is just and reasonable as long as the Act makes it impossible to have claims for reparation, by a process which gives the board power to approve these rates; having approved such a rate, that rate is just and reasonable until disapproved by the board; therefore, no claim can arise.

Mr. GREEN: Is it your point that in the present section 330 of the Railway Act there is this overall provision "Every standard freight tariff shall be filed with the Board, and shall be subject to the approval of the Board"?

Mr. EVANS: Yes.

Mr. GREEN: But that under the new section there is no provision whatever for similar—

Mr. EVANS: Prior approval.

Mr. GREEN: Prior approval?

Mr. EVANS: There is no prior approval.

Mr. GREEN: That is your point?

Mr. EVANS: That is my point. Now then, I have a somewhat extensive argument on competitive rates. There are two aspects in this bill.

The CHAIRMAN: I believe you said you had some suggestions to make in regard to the points you have just raised?

Mr. EVANS: May I put it to you this way, sir: what I had intended to do about that was to address myself generally to the provisions of this bill and then when the bill is being considered clause by clause I would make specific suggestions at the most useful time I thought to help the committee with regard to the amendment of specific sections.

The CHAIRMAN: I am in the hands of the committee but I do think it would be helpful to have those proposed suggestions now so that he will have plenty of time in which to consider them.

Mr. Low: Well, Mr. Chairman, while the argument is being advanced would seem to be a very useful time to have that information before us.

Mr. MUTCH: We are in a position where it may be some time before we come to a clause by clause discussion of this bill. I think, therefore, we had better have what they want in the record now.

Mr. EVANS: That would take a very considerable time to do and I have not arranged myself to do that.

The CHAIRMAN: Then on the general clause, what had you in mind on that?

Mr. EVANS: What I had in mind was a very simple provision as far as this particular point is concerned; to retain these sections of the Act as they now stand, including the standard rates and the prior approval of standard rates; but that is quite a simple suggestion.

Mr. GREEN: Mr. Chairman, we are all fully agreed on this business. I think perhaps it would be wise to let Mr. Evans go ahead with his submission until at least we get a rough outline of the submission before us rather than trying to make him follow a special procedure. He has a brief to read. I think he should be permitted to present it.

Mr. MACNAUGHT: Mr. Chairman, I think it would be impractical for us to wait for these suggested amendments until we reach the clause by clause discussion stage on this bill. If possible I think we should have them before us at an earlier stage so that we can study them and receive information about them, and I think the railway should put them before us as soon as possible.

The CHAIRMAN: Perhaps it would be a fairer way of proceeding to allow Mr. Evans to complete his representations, and perhaps I should not have interrupted him, Mr. Green; but I do think, Mr. Evans, after you have concluded your general presentation to the committee that you should then disclose to us the detailed amendments which you propose.

Mr. EVANS: Whatever is most convenient to the committee.

Mr. MUTCH: I do think, Mr. Chairman, in the presentation we should stick as closely as possible to that which is before the committee. I have had the feeling—I hesitated to say anything before you did—that we are covering the whole field, and I think that we have a tendency to cover the whole field. Without associating myself with Mr. Green in that respect, I doubt whether either our terms of reference or competence permit us to review the whole field which this brief apparently seems to place before us. I would like to see us getting a little closer to the legislation before us.

Mr. EVANS: I am entirely in the hands of the committee. May I say this, and I want to be perfectly fair about this, I have no intention of going behind this Royal Commission but intend rather to confine myself strictly to the matter which is before the committee. I was before the Royal Commission for 135 days and I was on my feet for a great many days at a time; and I know it would be quite impossible and I think would be presumptuous on my part to make any attempt to do that. But what I do most earnestly suggest to you is that if you are to consider this legislation flowing from the recommendations of the report you must then necessarily know what those recommendations involve because until you do, then you can hardly say, in my respectful submission, whether it clarifies the recommendations or whether it does not carry out those recommendations. May I assure you that in this whole matter I am merely trying to be helpful.

Hon. Mr. CHEVRIER: I was just going to say this. The recommendations of the commission we think are carried out by this bill and we have given it pretty careful consideration. We have turned it over to a committee, a legal committee, a technical committee, who have studied it, worked on it for some months; and it is their view that this bill carries out the recommendations of the commission. I think you can tell us without going back of the recommendations if this bill does that. Perhaps I could go a step further. You have been discussing the report and as you have gone along I was trying to recollect some part of the report that dealt with that, and now I have found it.

Mr. EVANS: Yes?

Hon. Mr. CHEVRIER: On page 126 of the report, paragraph 9 (b), the commission recommends:

The establishment of one uniform equalized class rate scale throughout Canada applicable on each of the two major railway systems, expressed in mileage distances or in specific rates between all specified points on each railway; the tolls in such tariffs to be specified in blocks or groups by mileage or otherwise, and such blocks or groups to include relatively greater distances for the longer than for the shorter hauls, the level of this uniform equalized scale to be fixed by the Board.

Now, doesn't that destroy your argument on reparations since the rate is going to be fixed by the board? Then, where does the question of reparations come in?

Mr. EVANS: Well, sir, the level of rates may do what you say it does but what I think could be said is this: the Interstate Commerce Commission had the power to fix rates and has the power to fix the level of rates; but what happens under those conditions is that where a railway makes a change in its rate structure, which it has the right to do without prior approval, it puts in a new schedule of rates and makes a change in those rates—and that is a quite common practice.

The CHAIRMAN: A little louder, please.

Mr. EVANS: I am sorry—it has a continuing duty in the United States of establishing rates that are just and reasonable. Now, the Interstate Commerce Commission does not intervene at the outset, it leaves it to the railways to find a just and reasonable level of rates. It does intervene in some cases, but not in all cases. Now then, if a railway wants to put in a rate to get a particular kind of traffic, take a special commodity rate and traffic moves under that rate for let us say five years; now, somebody comes along and establishes to the satisfaction of the board that the rate, which may be lower than the normal class rate, may be lower than the equalized class rate scale we are talking about, is not just and reasonable, that it is unreasonable, the board may say, yes, we agree with you and

we will agree with you that it always was higher than it should have been for that purpose. Now, a claimant goes to court and says, here is a commodity on which the railway should have a just and reasonable rate. There is nothing in this Act which says that any particular rate or scale of rates is just and reasonable. The board now hold for the first time that this particular rate or group of rates is unreasonably high; they say, we agree with you that they should not have published that rate, but the fact is that nobody challenged it, or charged that it was not reasonable. The court may say: yes, the railways committed a breach of duty in respect of that commodity rate and we are going to award you damages for their breach of it. I only want to say to you that I cannot offer you a firm opinion that that type of claim would succeed; and there would be other defences to it which might be available. But for all that, I respectfully suggest to you, sir, that if there is that danger is it worth while to abolish that prior approval if that is the only reason for abolishing that prior approval, because those rates do not now have the amount of traffic they used to have.

Hon. Mr. CHEVRIER: The point I was trying to make was that if this bill contains the recommendations in that paragraph 9 (b), and certainly it does, then there is not the danger which I think you anticipate. I may be wrong.

Mr. EVANS: Well, I honestly believe there is that danger, sir. I can only say that my view is that that danger does exist, and I would hate to have a case develop after this legislation has been passed, because I am going to submit to you, why not block that loop-hole if you see there is any possible danger there.

Mr. ARGUE: As to your second reference, the matter of prior approval, the first part of the old section reads as follows:

Every standard freight tariff shall be filed with the board, and shall be subject to the approval of the board.

In the new legislation we find the first paragraph says:

Every freight tariff and every amendment of a freight tariff shall be filed and published, and notice shall be issued thereof and of cancellation of any such tariff or any portion thereof shall be given in accordance with regulations, orders or directions made by the Board

and so, unless it's disallowed by statute or postponed by the Board, "it shall take effect on the date stated in the tariff as the date on which it is intended to take effect"—and so on. It seems to me that the new section is very much the same as the old section.

Hon. Mr. CHEVRIER: That is it.

Mr. ARGUE: And the new section, to which I refer, will come into effect unless it is disallowed by statute or postponed by order of the Board. It seems to me that it is a matter which is subject to the Board.

The CHAIRMAN: Shall we wait Mr. Argue? The witness has indicated that with respect to this clause he is now making a general presentation and that he will bring to the attention of the committee the amendments which he believes are necessary to block this anticipated loop-hole.

Mr. EVANS: Yes, sir; I would be very happy to do that anytime the committee wants it, but I—

Mr. ARGUE: My question is: does this not cover it?

The CHAIRMAN: There is just one point there, Mr. Argue; it may be there is no provision in the new section 330 for express approval.

Mr. EVANS: My friend Mr. Spence has just called my attention to the fact that he recalls a case—he hasn't got the reference to it with him—where the Board has ruled that approval of a level is not a ruling that individual rates are just and reasonable—we will look that case up because I want to be absolutely

accurate before making any such statement. As I was saying, I have a rather extended argument on competitive rates. I do hope the committee will bear with me because the question of competitive rates is a complicated and difficult one and I want to tell the whole story but I do not want to bore anybody.

I am sure that none of you has been unaware in recent years of the situation with which the railways are faced in regard to competition in other forms of transport. Certainly a great deal of prominence has been given to the problem provided by the competition of motor truck transportation. To a lesser degree, you have no doubt been aware that the competition from motor transport which has been a factor in the problem of the railways and the rate structure in varying degrees throughout their entire history.

Let me make clear at the outset that the railways, at any rate my own company, have no complaint against competition as such, nor would they have any right to complain if the competition be fair and equal competition.

The complaint of the railway is, however, that the competition, particularly motor truck competition, is unfair because the motor truck operator is relatively free from regulation, while the railways are hedged about with regulation in everything they do.

Now, this has a bearing, in my respectful submission, upon the various items which the bill provides must be given to the Board in connection with competitive rates.

And now, railways are regulated in every aspect of their operation. They may not extend their lines except when authorized by statute or in the case of branch lines not exceeding six miles in length, by the Board under the Railway Act. They may not abandon an unprofitable line without the approval of the Board; they may on complaint be required by the Board to increase a very unprofitable service or be prevented from decreasing such services; they must conform to a variety of regulations of every kind relating to almost every phase of their operation.

THE CHAIRMAN: I am awfully sorry to have to be interrupting you so often, but I am worried; is this within the section of the legislation referred to us?

MR. EVANS: Yes, sir; I have a point on the legislation.

THE CHAIRMAN: You see, we must not constitute ourselves a court of appeal on this commission report. We have no right to hear your evidence without allowing the truck associations and the bus associations to come in and rebut it, and all that kind of thing.

MR. EVANS: Well, sir, how otherwise can I make the point that you are adding unnecessarily to the provisions of the Act with regard to competition? Now my whole point really gets down to this, that these two provisions—(1) as regards the provisions under that new section 331, page 4 of the bill—we say that these provisions are going, if I might use a word of the street, to hamstring the railways, and I thought it would be helpful if I were to lay the basis for it by pointing to the fact that the railways are already hampered in meeting competition.

THE CHAIRMAN: Would you indicate to the committee in what way section 331 will harm the C.P.R.? You would certainly be within our scope of reference in doing that.

MR. EVANS: All right, sir. May I assume then I do not discuss what competitive rates are, how they are met today, what purposes they perform, because I do not know how I can make my points under this bill without telling you something of how this question of competition—

HON. MR. CHEVRIER: May I say a word here in regard to what the chairman has said? I need not tell you, because I am sure you know, that the truckers and the bus operators fear legislation that will be harmful to them, and so the moment you start discussing the competition of trucks on highways, which is not dealt

with in this bill, you invite—you know how active they are—representations from them, and there are many of them, in fact they are far more numerous than the railways; and if this committee is going to sit here and hear representations from truck and bus operators I do not know when we will finish.

Mr. EVANS: I am not asking this committee to put anything in this bill to regulate truckers.

Hon. Mr. CHEVRIER: I know you are not, but in discussing competitive rates of railways you must of course make some reference to water competition and road competition; but could you not deal with it in such a way that you will not open the whole subject? That is really the point.

Mr. EVANS: I had hoped I was going to, but I am entirely in your hands.

Mr. LAING: I take it we do not want to have truckers before this committee on these bills. I think if the subject matter is entered now we shall have truckers in here.

Mr. MUTCH: We have already had submissions or suggestions that they be here.

The CHAIRMAN: Are you afraid the Canadian National will come along with competitive rate schedules which will be harmful to the C.P.R.?

Mr. EVANS: No, sir.

The CHAIRMAN: Does the C.P.R. intend to come along with any competitive rate schedules which will be harmful to the C.N.R.?

Mr. EVANS: No, sir.

The CHAIRMAN: What do you fear as a result of section 331? That is what is worrying me.

Mr. EVANS: I thought that perhaps I could refer to the royal commission report where they appreciated our problem—

The CHAIRMAN: I am sorry to interrupt a very interesting presentation but I fear the results that would flow to this committee from opening the door so wide.

Mr. MUTCH: Covering too much territory.

Mr. GREEN: Would the provisions of this new section 331, which requires the filing of competitive tariffs and also the giving of quite a bit of information in regard to competition, not apply to competition between the railways and the truckers as well as between the two railways? It is not restricted to competition between the railways alone.

Hon. Mr. CHEVRIER: Quite. It is not. What is more, it is not mandatory legislation, it is permissive legislation.

Mr. GREEN: For that reason I think he should be allowed to deal with truck competition.

Hon. Mr. CHEVRIER: That is exactly the point I was making. If he felt he should, perhaps he might refer to it, but if he does go into it I do not see how we can refuse truck and bus operators permission to come before us. Certainly this legislation has nothing to do with them directly—it does by virtue of the indirect method under section 331, but may I point out that this is not mandatory legislation.

Mr. EVANS: I propose dealing with that, sir.

The CHAIRMAN: Do you fear that the board may ask you to bring in competitive rates that are not profitable?

Mr. EVANS: No, sir, but I am afraid that the machinery will get so complicated that it will be almost impossible to justify these competitive rates.

The CHAIRMAN: Who outside of the board has power to ask you any questions about competitive rates?

Mr. EVANS: No one, sir.

The CHAIRMAN: Well then, you fear that the board may demand competitive rates that are unsatisfactory to the company?

Mr. EVANS: No, sir. May I answer the minister's point first? It is true that this is not mandatory on the board, but I think we might assume that with a long list of specific requirements in the section that if anyone were to say to the board the railways should be required to produce this information the board would automatically, practically under the mandate of this section, feel that they should ask the railways to produce this information, and I am going to show, if I can, how difficult and how almost impossible this information is to obtain.

The CHAIRMAN: But is the board going to ask you for any of this information unless you come along with a competitive rate proposal?

Mr. EVANS: Oh, no.

The CHAIRMAN: Then is it not in your own hands?

Mr. EVANS: One of the difficulties I am under right here is that we have on the one hand the provinces rather complaining to the royal commission that they wanted more competition in their provinces, that they were not getting the benefit of competition, and I see my friend Mr. Frawley smiling broadly because one of the points he made was that he did not have enough competition in western Canada, and I am not in the least perturbed by that. I think we will have more competition in western Canada. Why hamstring the railways in meeting it? This section will do so.

The CHAIRMAN: You are afraid the board will have the power to ask you too much in the way of particulars before authorizing a competitive rate?

Mr. EVANS: Yes, I believe it so strongly that I say to you not only is it going to be difficult but it is going to be relatively impossible to live up to that section.

Subsection 2 of the new section 331 is divided into (a), (b) and (c), and (c) is divided into eight parts, and all these subsections are unreasonable and I think they should come out. May I deal with them separately?

The CHAIRMAN: Yes.

Mr. MACNAUGHT: Do you object to every one?

Mr. EVANS: Not every one.

Mr. MACNAUGHT: The chairman asked you which ones you objected to.

Mr. EVANS: The only ones I will say will give us no difficulty are the last two.

Mr. MACNAUGHT: (c) (vii) and (c) (viii)—you do not object to (vii) and (viii) of (c).

Mr. EVANS: No.

Mr. MACNAUGHT: All the rest you object to.

Mr. MÜTCH: Tell us the story on the others.

Mr. EVANS: Let us take the first one if I may, the name of the carrier.

Hon. Mr. CHEVRIER: I take it you do not object to subsection (2) (a), (b) and (c).

Mr. EVANS: I prefer not to have it in that form. I am going to make a suggestion to you in due course.

Mr. GREEN: Mr. Chairman, let us have a look at this procedure for a minute. This is a very important feature of the new legislation. It applies, for example, to what is probably the biggest problem in the whole freight rate question, and

that is that the rates in Ontario and in Quebec are not as high as they should be because the railways feel they cannot charge the proper rates in those provinces because of trucking competition. Now it may be that the western provinces may complain and say that a competitive rate which the railway is proposing to file is too low, that they should not be allowed to file such a competitive rate, and there you get right into the question which has to do with the railways. I do not see how any representative here can make a proper submission when he is being compelled to restrict his statements to one particular section or one particular subsection before he has had a chance to lay the groundwork. Now I am inclined to be a bit hostile, as a western member, but I think there should be a fair hearing and I do not believe we are going to get a fair hearing if the chairman is going to keep on trying to force the witness to confine his remarks to a particular section or subsection before we have got the story. I have been kicked around like that in court myself more than once, and it makes it absolutely impossible for counsel to make a presentation. We are a semi-judicial body and we should allow the witnesses to state their case and not go after them in the middle of a sentence and ask them to go on with something else. Mr. Evans has his brief prepared. Why not let him present it and then when we have heard him we can sift out what we think is the grain from the chaff. I think, Mr. Chairman, you are interrupting too much, that we would make faster progress if we heard the submission, but as it is now are just being jumped from one point to another and not getting anywhere.

The CHAIRMAN: Mr. Green, I am only trying to keep the inquiry of this committee within the scope of the reference, and if I have been unreasonable in trying to do that, I know the committee will very soon set me right. I will certainly not let this inquiry become wide open and be a court of appeal on the report of the royal commission without plenty of protest from the chair. The witness is an experienced counsel and I do not think he will be put out of his stride at all. If you have any complaints of the interruptions I wish you would please make them from time to time, Mr. Evans.

Mr. EVANS: Yes, sir.

Mr. GILLIS: Mr. Chairman, I am inclined to agree with the chairman. The witness admitted he was before the Royal Commission on Transportation for 135 days and arising out of all of their deliberations there comes this bill. It is not our prerogative to go back over the ground and examine why the commission made the recommendations they did or why the government brought this bill in. What I would like to hear the witness do is to examine that bill section by section and tell us what should replace it. I believe that if he did that it would be more informative to the committee. We would actually know then what he wants. I do not think we are authorized to make a rehash of the evidence that brought about this bill. I would like to find out what their objections are to this bill and what should replace it.

Mr. LAING: Mr. Chairman, could Mr. Evans tell us what proportion of his company's freight moves under competitive rates and what proportion of revenue they get from it?

Mr. EVANS: Approximately ten per cent of revenue.

Mr. LAING: And the volume?

Mr. EVANS: I am not too sure on that, but revenue is ten per cent. Volume would be slightly higher. The average return per ton of competitive traffic is very much higher than the average of all traffic.

The CHAIRMAN: Is it agreeable then that we shall leave it to the witness to object if he is interrupted too much?

Agreed.

Mr. EVANS: I am going to do it this way if I may. I am trying to be helpful, and I do not think my entire presentation at this stage will take more than two hours all told. Now I could not possibly get too seriously offensive in that time.

The CHAIRMAN: It is a question of opening the door to others.

Mr. MUTCH: If you were to be the only witness there would be nothing to it, but we know there will be others.

Mr. EVANS: May I make this suggestion to you that we substitute for subsection two of the new section 331 the following provision:

(2) The Board may require a company issuing a competitive rate to furnish at the time of filing the rate, or at any time, any information which the Board may deem necessary in order to enable it to determine whether such rate is reasonably necessary to meet competition and whether the establishment of such rate may reasonably be expected to enhance the net revenue of the company.

Now, that is my suggestion for all of the present subsection two of section 331 of the bill, and I would like to examine, if I may be permitted to do so, why I make that suggestion and why all the several headings, the numbered headings are objectionable, and why—

Hon. Mr. CHEVRIER: May I ask you to, when you make these suggestion, to let us have a copy?

Mr. EVANS: I have had them mimeographed.

The CHAIRMAN: That appears to me to be much wider than the actual terms of the bill.

Mr. EVANS: Yes, and I did hope I would have the time necessary to show you why it is better to have it in broad language than in specific language.

Mr. MUTCH: How long would it take to secure a decision on that type of generality?

Mr. EVANS: It should not take any time.

Hon. Mr. CHEVRIER: I think the witness should go along with his presentation and I will see that it is given consideration. We could not decide that immediately in any event. I would want to give it some thought.

Mr. EVANS: If I might examine each of these headings beginning with (c) (i)—the name of the competing carriers. This sounds like an easy and simple requirement. However, in practice it may prove difficult. It is easy to take a particular route and find the names of the operators of common carrier trucks which are licensed for that route. However, many licensed truckers have so called contract licences which enable them to operate to any points in a given area, either for a single shipper or for a named group of shippers. They may operate under contracts on fifty different routes and they may operate only when the particular shipper calls upon them to do so. There are in addition, the so called private carriers—

Mr. LAING: They operate under provincial statute?

Mr. EVANS: Yes. There are also in addition, the so called private carriers, who carry only their own goods. They are free to carry their own goods any place and are not usually confined to routes. They are far more numerous than the licensed carriers. All told, I can think of routes in Ontario and Quebec which might have literally hundreds of truck operators who in greater or less degree are competing with the railways. It would put a tremendous burden on the railways to have to list the names of all these carriers every time they file a competitive rate or change an existing competitive rate.

Now, then, the second requirement, (ii), the route over which competing carriers operate. Many competing carriers have no defined routes and this is particularly true of so called contract carriers and private carriers.

The third requirement, (iii), the rates charged by the competing carriers with proof of such rates as far as ascertainable. Now, the railways can never in most cases offer proof of what the competing carrier is charging. In most cases the rates are not published even by the common or route carriers. The railways are often told by shippers that they can get a given rate from a trucker and that if the railways are prepared to meet it, they can hope to participate in the traffic. In other cases, the railways have to estimate the cost of carriage by motor truck and to quote rates to meet that cost. Now in such a case the shipper's trucking cost varies with his operation, his facilities, his type of traffic, the size of his trucks and the extent to which he gets full loads. Some private truckers can load one material in one direction and another on the return movement. Others cannot because being unable to carry for hire, they must return empty. All this affects their costs. The rate fixed by the railway must in large measure be one of agreement with shippers and an exercise of judgment by traffic officers. How then can the railways satisfy a requirement that they must prove what rate is charged by their competitors. Even the qualification "as far as ascertainable" imposes the obligation to make every effort to obtain the information which may, in many cases, be a heavy burden.

(iv) The tonnage normally carried by the railway between points of origin and destination.

What does "normally" mean? It would seem to mean under normal conditions, when truck competition did not exist. What possible use would it be to give the tonnage carried by the railways at some time years ago when the competitor was not operating? If it does not mean that, what does it mean? I am simply unable to say what it does mean. Perhaps it means what tonnage was being carried before the competitive rate was established. If so, what period would be called normal? Perhaps at one time the railways carried all the traffic and at the time the rate was established they were carrying none.

In any case, the taking off of tonnage figures for a truly representative period would be a tremendous burden if it has to be limited to particular points of origin and destination and to particular commodities for the many hundreds of origins and destinations which are frequently involved in a competitive tariff.

(v) The estimated amount of tonnage that is diverted from the railway or that will be diverted if the rate is not made effective.

Here we come to a nearly impossible requirement. The only way this can be done is to know the tonnage being carried by all the competitors and by all the railways between given points. Then when you have that, how can you determine whether some of it may have been diverted and some of it new traffic that never moved by rail?

Then too, how could a railway estimate how much of its traffic will be diverted if the rate is not made effective? To ask the question is to answer it. It is anyone's guess. Why? Well, the guarantee is there that the rate will stop the diversion until it becomes effective and how could the board decide any better than railway traffic officers whether the rate will be right or needs to be higher or lower to retain the traffic or to get new traffic? After all, the purpose of getting information of this kind is as the commission says, to "provide the board with data from which to judge the strength of the competition and the necessity of taking action to suspend or disallow any competitive rate". (See p. 87)

It really gets down to this. The making of competitive rates is largely a matter for the judgment of the traffic officers of the railway company. This judgment is either good or bad, depending upon the individual who makes the decision. Good traffic officers have good judgment. Poor traffic officers have poor judgment. Certainly the board is not likely to be as closely in

touch with the situation and the supplying of such information can never put it in the position to exercise its judgment. In any case we are not, I hope, in this country as yet going to displace the skilled judgment of traffic officers who have been for years in daily contact with these problems and substitute for it the judgment of the board. I am quite content, however, that the board should be able to determine whether the judgment of the railway officers has been exercised in good faith. That is what the purpose of my amendment to subsection 2 is.

Mr. LAING: Does the general power to do this rest in the board now?

Mr. EVANS: It does. And I suggest that the board can do now exactly what this amendment proposes that they should, if it is necessary that they should do it. But I am coming to one of the things which goes even beyond all this, and which I think is the crux of my objection.

(vi) The extent to which the net revenue of the company will be improved by the proposed changes.

Note the language here, "the extent"—and I ask you to observe the word "extent"—"to which net revenue will be improved." This involves all of the other information obtained under items (iv) and (v) and an analysis of the railway cost of operation so as to determine how much net revenue will be obtained if the new rate becomes effective. Here again it is purely a matter of judgment and not of exact calculation.

Now then, as I say, it also involves an analysis of railway costs of operation because if you do not know what the railway cost of operation was in a particular area where this rate was put into effect, you could not tell how much net revenue was going to be derived. There again, the railway costs of operation are never exact enough to permit any analysis or calculation of the extent of the net revenue improvement. It is to be noted that this requirement is much more onerous than is the requirement with regard to agreed charges under the Transport Act.

I want to stop for a moment to examine what those differences are because—and here again I hope I am not transgressing on what the commission intended to say. They wanted to have information supplied similar to that which is now supplied in connection with the approval of a agreed charge. So I have to go into the question of what an agreed charge is.

An agreed charge is a special contract rate made by agreement and not by a tariff; and it is made by virtue of the provisions of the Transport Act. In that Act, where a railway company makes an agreement with a shipper by which the shipper is to have an agreed rate, in return, that shipper undertakes to deliver to the railway the whole or a specific part of his traffic; and the railway company is only required to show the effect of the agreed charge upon the net revenue, not the extent to which the net revenue may be improved, but the effect upon the net revenue.

Mr. LAING: Must there be a publication?

Mr. EVANS: The agreed charge must be published, and anyone who is affected by this rate can come to the board and ask for a charge to be fixed.

Hon. Mr. CHEVRIER: Is there a difference between what the railways have to do with respect to an agreed charge and what you have to do under section 331-1 of the Act?

Mr. EVANS: Yes sir.

Hon. Mr. CHEVRIER: What you are required to do under section 331-1 is pretty much what you are required to do with respect to an agreed charge?

Mr. EVANS: On this particular point you have to show in connection with an agreed charge what the general effect will be on your revenue. You do not

have to show the dollar effect, but you do have to show what the general effect is. But under this provision you have to show the extent to which the net revenue will be improved.

Hon. Mr. CHEVRIER: No. You have not got to show the cost. You may be required to show the extent, but that is an entirely different position. It says here—and such information as you are speaking about. If the board deems it practical and desirable, the board can say that since you as a railway cannot furnish (e), (f), and (g), which you say you cannot furnish, you are not required to furnish it.

Mr. EVANS: Well, sir, I can tell you now that it would be impossible in any case to show the extent, and, if it is impossible to show in any case what the extent is, why then have power in the Board to demand that we show it?

Hon. Mr. CHEVRIER: My answer to that is the Royal Commission on Transporation, after having given it careful consideration, has so recommended—after having heard evidence all across the country, and there it is on page 86 of the report.

Mr. EVANS: I want to be entirely fair.

Hon. Mr. CHEVRIER: I am not a technical man and do not know the details. All I can say is there it is in the report.

Mr. CAVERS: Might it be that the company might not be entitled to this competitive rate unless they qualified under the different sections set out in 331.

The CHAIRMAN: I think that is the inference.

Hon. Mr. CHEVRIER: I think the argument you are making is a perfectly logical one to make before the Board but not before us—but I am not going to interrupt any further.

Mr. EVANS: I am most anxious that I should not give offence. I have no desire to do so but may I earnestly say to you this: these are things that were never discussed before the royal commission. I have not had a chance to express myself on them before. These are ideas of the royal commission itself, made by way of compromise to various proposals. They rejected other proposals by the provinces and they never discussed this kind of thing. Had they done so I would have been making this argument to the royal commission, and I am perfectly certain in my own mind I could have convinced them that it was better to take my draft than this—because I most honestly and earnestly believe that these provisions are going to hamstring the railways in meeting competition, or I would not be here.

Hon. Mr. CHEVRIER: But must the commission discuss all of the recommendations it makes with the parties affected?

Mr. EVANS: I am not complaining—

Hon. Mr. CHEVRIER: The commission hears evidence and it makes recommendations to the best of its understanding. I am sure there are a number of things which are helpful to the railways which they did not discuss with the the railways and to which you are not objecting.

Mr. EVANS: I am not objecting to the principle of this recommendation and I am not saying that we should go behind the thing that activated the royal commission. I am asking this committee to accept the principle that the royal commission goes for and to do it in somewhat different terms. I would not think that is going too far because, had I had a chance—I am not complaining because the royal commission did not discuss this with me; I had every opportunity to be heard—but they came to write their report with these provisions which had not been discussed, and I hoped that I would be able to say what my views were and to offer not a rejection of the principle but a substitute which has not got those objections. It strikes me as being an eminently fair way, but I am in your hands.

The CHAIRMAN: I think you have made your point very clearly.

Mr. MACDONNELL: May I ask a question? It is prompted by a remark made by the minister. What I want to ask is this: first of all I understood the minister to state that these various headings of subsection (c) of 331 are contained in the report. Am I correct in that—that they are contained in the Turgeon Report?

Hon. Mr. CHEVRIER: Yes.

Mr. MACDONNELL: Then I understood the minister to say because that was so they were more or less untouchable?

Hon. Mr. CHEVRIER: No, no.

Mr. MACDONNELL: Well, perhaps I took too much.

Supposing we came to this conclusion here—or that the government came to this conclusion without our assistance—that they wanted to alter this clause, the government would not be inhibited in any way by reason of the fact the commission had suggested these particular headings?

Hon. Mr. CHEVRIER: I do not think so.

Mr. MACDONNELL: Then I misunderstood you.

Hon. Mr. CHEVRIER: The point I was trying to make was first of all that a great deal of the information required under 331 is already required of the railways under agreed charges and, in answer to a point made by Mr. Evans who was complaining about the fact that he was not heard on this point of competitive rates, I said the royal commission had recommended these changes and that is why they are in the Act.

I am not an expert on traffic or technical matters and neither is the government, but it felt that these recommendations should be put into effect. It raises also the point made by Mr. Green—and I am in the hands of the committee just like anyone else and subject to its decision—as to whether or not we are going to hear in appeal what was heard before the royal commission. If we are, all right, I will sit—but I do not think we should.

Mr. GREEN: Well, I submit that we should hear the objections to this section. It does not matter at all what the royal commission recommended. If the witness believes there are defects in this amendment we want to know about those defects.

Hon. Mr. CHEVRIER: I am fully in agreement with that. This is a suggestion which the witness has and all I want to do is to have an opportunity of reading this to see whether it is acceptable.

Mr. GREEN: I would like to hear what other objections the witness has to these provisions.

The CHAIRMAN: We will have them, Mr. Green, and as I understand the point the witness is making it is that there is a small misstatement of fact on page 88 of the Commissioner's report where he says: Before an agreed charge can be agreed upon the applicant must show the extent to which the net revenue of the railway will be improved.

Mr. EVANS: It does not quite do that.

The CHAIRMAN: The actual wording is: the extent to which the net revenue of the railway will be met. I understand you to argue that that information is not required, as to the approval of agreed charges.

Mr. EVANS: In my submission the legislation does not quite bear that out.

The CHAIRMAN: No, I turned it around. The minister has already worded it much better.

Mr. MACNAUGHT: Could I ask a question of the witness, Mr. Chairman? I would like to ask, in what manner he says his suggested amendment limits or broadens the proposed section. To my mind it makes it broader.

Mr. EVANS: It does broaden the power but it does not contain the inference that the Board should ask for particular information. You see what I am saying in this proposed subsection, as I have drafted it, is this: the Board may ask what is reasonable and necessary to establish that a rate is necessary to meet competition and whether it may reasonably be expected to enhance the net revenue of the railway. Now, that is in effect saying that the Board may test the bona fides, the good faith of the judgment of our own traffic officers in putting the rate into effect.

Hon. Mr. CHEVRIER: The Board could under that heading decide that it is necessary for you to give all the information, a, b, c, d, e, f, g, that you object to now.

Mr. EVANS: If they were provided with the machinery, as you say, that could be done, yes. I come back, Mr. Minister and Mr. Chairman and gentlemen, to the one principle which we are talking about. I am not afraid of the Board of Transport Commissioners having discretion. I think it is wrong in principle to spell out these things which they are required to do; and if it does spell them out, although the Act uses the word "may" they will determine on complaint that the Act contains something they are required to act on. I say, and I think I am being perfectly fair, the extent to which the net revenue can be improved is impossible to indicate in all cases. I am making this suggestion to you that the effect on net revenue is perfectly possible to obtain and very reasonable and we can supply all that. I do not think we should be hedged about too much; the whole idea of hedging about management in these competitive rates is the assumption that management cannot be trusted to operate the railways. I have no objection to an attempt to test the bona fides and good faith of management. What more regulation could be necessary? I want to be reasonable about this thing. I say to you, sir—please do not think I am trying to be obstructive—I want to maintain the discretion basically resting in the Board. I can then go and present my case to the Board and if I cannot succeed I have no complaint. But I do think that if you set out in the statute specific headings of information, the inevitable result will be that when my friend Mr. Frawley comes forward the Board takes the easiest way out and says: Here is what the Act contemplates would be provided and here is what we are going to ask you to provide. That is just the first example of that. I was going on—but I am in the hands of the committee—I want to explain why it would be easier for the railway to show the extent of the improvement in net revenue in the case of an agreed charge as compared with the case of a competitive rate. And I want to make this point: an agreed charge is a contract and there are damages provided under that contract for a breach of the conditions of the contract. The contract also provides that he, the shipper, must supply the railway with some specified portion of his traffic, that he must supply all or some specific portion of his traffic to the railway for transport. And now, the railway can come along, they know how much traffic he can offer because they have bargained for it. They can estimate his output. They can estimate how much the railway is going to earn in net revenue far easier than they could under the other. And I say further that because we have to publish that tariff, that tariff is open to anyone who wishes to use it. Unless one has a contract which will provide and insure that they get a certain proportion of the traffic they are not going to be able to estimate what the improvement in net revenue is going to be. Unless they have such a contract how are the railways going to be able to say that their situation is going to be improved? It isn't possible. If they cannot say how much of the traffic they are going to get how can they work out what net

revenue they are going to have? I say if you ask me if that is a reasonable possibility, I am certain it is not. I think the railway officer should say whether in his judgment that is so and then the Board could test his judgment to see whether what was done had been done in good faith. If you say you must show in dollars how much it will be, I say that is impossible.

Mr. ARGUE: The section does not ask any of the railways to produce in dollars the increase in net revenue; it says, the extent. Would not that be a reasonable estimate?

Mr. EVANS: I think it would be reasonable. You have to make an effort. You have to be able to say, "now we analyze this situation as so and so and we expect a thousand tons of traffic", but how can a traffic man or an accountant go into the witness box and say we expect a thousand tons of traffic. We do not know; we cannot know. Under a contract like an agreed charge we can, but under a competitive rate any one of a thousand shippers can use it and they can use it one day and not the next, and if a shipper wants to play the railway off against a trucker he goes and gets them to quote a rate, and then asks the trucker to meet that competitive rate. You have no way of telling if you are going to get traffic out of that. You can only use your judgment, and I say the judgment of traffic officers is the judgment of people who are in this business day after day, year after year, and who have had experience, and you cannot expect any board, no matter how good that board is, to use judgment that is better than that of the traffic officers, if you have qualified traffic officers. What you can do and what I have no objection to your doing is to permit that board to say, does that traffic officer exercise his judgment in good faith and with good reason, and beyond that the regulatory tribunal has no function, in my humble opinion.

Mr. ARGUE: Under your proposed amendment would it not be possible for the board to obtain from the railways the same kind of information they might obtain under this new section? In other words this cuts down a whole lot of provisions in the new section. I am ready, for one, to leave it to the Board of Transport Commissioners to fight it out with the railway companies as to what information they think is practicable and desirable.

Mr. EVANS: Mr. Argue, I say this to you—if my experience is worth anything to you—if you put a lot of headings down in a statute you come to find a tribunal takes the easy way of requiring you to live up to all those headings. Now if you give them broad general powers and give a chance for the railways to come before them and to say that this Board can exercise its discretion in the general way that the section intends, then the railway has a chance to make itself heard. But as soon as my friend Mr. Frawley comes before the board I can hear him saying, there is a list of the things that the board is enabled to have the railways produce.

Mr. ARGUE: You want that taken out?

Mr. EVANS: Yes.

The CHAIRMAN: Shall we get on with the next point?

Mr. MACNAUGHT: It is one o'clock.

Mr. LOW: Mr. Chairman, what is the proposal now with respect to the length of sittings?

The CHAIRMAN: I expect the committee would want to reconvene at three o'clock. I think we should get on to the record as quickly as we can the submissions of the railways and then when that is done the committee should recess for four or five days to study their representations.

Mr. ARGUE: I wonder if we can speed up the printing of the record?

The CHAIRMAN: Yes, we are going to do that.

Mr. Low: It appears we are just now at the point where we could adjourn till 3.30. I would so move.

Mr. LAING: Mr. Chairman, before adjournment, I have an idea I would like to sell to this committee. I think we are already of the opinion that this is one of the most complex studies that any committee could have placed before it. Mr. Evans has spoken of the traffic officers, and I want to speak of a group in Canada known as the Canadian Industrial Traffic League, and I think that this committee should have some of these men brought before it to advise it. As far as I can find out—

The CHAIRMAN: Mr. Laing, if I may, I still convene the agenda or steering committee and allow you to make your representations before them.

Mr. LAING: That will be satisfactory.

The CHAIRMAN: We will adjourn till 3.30 this afternoon.

Agreed.

AFTERNOON SESSION

The committee resumed at 3.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. Shall we carry on?

Mr. EVANS: Mr. Chairman, may I go back to cover a point that I did not cover in my rush this morning, about competitive rates. I am not trying to get into controversial ground, but I do want to draw attention to two things that are in this bill that I humbly suggest ought not to be there.

There are two kinds of rates, competitive rates, which are not intended to be covered, as I read the report of the royal commission. One is the rail carrier competitive rate, and the other is the market competitive rate. With regard to market competitive rates, the royal commission's report is clear that it did not intend its recommendations to cover them. Yet the legislation apparently does so.

At page 86 of the recommendations of the commission, the first sentence reads as follows:

The following recommendations are concerned only with carrier-competitive (and not market competitive) tariffs.

My suggestion is that the bill, since it does not exclude from the provision of section 331 market competitive rates, probably overlooks that sentence in the commission's report.

Now, with regard to rail competitive rates, there is one special category of rates that I think was not in the minds of the commission and certainly not in the minds of the draftmen of the bill. Those rates are the rates which are put into effect by one railway in order to compete with the so-called short-line mileage of another.

I want to give you an illustration of what I mean. Between Toronto and Sault Ste. Marie, Ontario, the mileage by way of the Canadian Pacific is 439 miles. That is the route via Sudbury and direct to Sault Ste. Marie.

On the other hand, the Canadian National route is via Sudbury to Oba, where it connects with the Algoma Central, and then goes south to Sault Ste. Marie. The mileage on the Canadian National and Algoma Central, to get to Sault Ste. Marie from Toronto via that route is 780 miles, or 341 miles greater than that of the Canadian Pacific.

Now then, since the rates are established on a basis of mileage, the normal rate on the Canadian Pacific, reflecting its shorter mileage, will be very much less than the normal rate on the Canadian National-Algoma Central route, with its greater mileage; and these will apply to all commodities on all classes of traffic.

If the Canadian National and Algoma Central are to participate in the large amount of traffic moving between Sault Ste. Marie and Toronto, they must charge the same rates as the Canadian Pacific is able to charge for its reduced mileage.

I suppose you are wondering why I am here trying to support the position of the Canadian National. What I am telling you is that these cases are special cases where it is in the interests of everybody that the rates should be fixed by reference to the short-line mileage.

Now then, the rates put in by the longer mileage line, being on the lower basis due to shorter mileage of the short-line route, cannot be applied to intermediate points because, if they were, this whole rate structure on the long line would be determined on the short-line mileage of the other route which is not competitive except at the point of destination.

To carry that point further, this rate, via Canadian National is much lower than it would be on the basis of the mileage. The intervening points on the route will be charged rates on their normal mileage, even though the traffic passes through those points to the ultimate destination at Sault Ste. Marie.

You see, there is no Canadian Pacific short-line to the intervening points. There is only the Canadian Pacific line to the Sault Ste. Marie.

Now, if the Canadian National, in order to meet the Canadian Pacific's short-line mileage to Sault Ste. Marie were compelled to put in a low basis of rates to the intervening points where there is no competition with the Canadian Pacific, you see, they would be charging the intervening points a lower rate than would be attributable to that mileage; and if they keep a lower rate than is referable to their mileage, then every other place in Canada would be discriminated against if they also did not get rates lower than would be attributable to their mileage. So that the scheme of these competitive rates is that you make them applicable only to the point of destination where the competition exists, and it is only because some other railway has a route which reaches that point by a shorter mileage.

Now that is only one of many examples. Further examples may be found in the fact that the Canadian Pacific has the shortest route to Calgary from Vancouver, whereas the Canadian National must reach Calgary via Edmonton, which is a much greater distance.

Similarly, the Canadian National's route to Edmonton is somewhat shorter than that of the Canadian Pacific which must reach Edmonton via Calgary. Each railway meets the rate of the other having the shorter mileage. No one is discriminated against, whereas the industries involved have the benefit of the competition of both railways as well as the services of both.

The board are very familiar with these cases and the practice which has been followed from the very beginning of time in this country; and I am submitting to you that there is no need whatever to require the railways to supply all this material with regard to these routes, because the board knows all about them and knows exactly why that condition is met as it is; and yet I submit this amendment in its terms includes competitive rates established by one railway to meet the short-line mileage of the other, and I suggest that the amending section be amended so as to exclude from its operations those kinds of competitive rates.

The CHAIRMAN: Have you got that proposed amendment ready for tabling?

Mr. EVANS: What I am suggesting to you is that the one amendment I have offered eliminates that difficulty; but I am suggesting to you that if the wish of the committee should be opposed to the submission I am making, they will have to be—if I may suggest so—very careful to see that these kind of rates are excluded because it would be, I think, useless to include them.

The CHAIRMAN: Just to clarify it, for I do not understand very much about freight rate: Do I take it that if a shipment is going from Toronto to, let us say, a

point on the Canadian National 25 miles north and west of Sault Ste. Marie, that shipment would be charged a much higher rate than it would be charged if it went from Toronto to Sault Ste. Marie via the Canadian National?

Mr. EVANS: Normally it would be because the route is longer. But they do not pay a higher rate. They pay the normal rate.

The CHAIRMAN: Well, a higher freight rate.

Mr. EVANS: It would be a higher rate than would be payable to Sault Ste. Marie because Sault Ste. Marie can get its rates fixed by the short-line of the Canadian Pacific, whereas a point on the Canadian National would have to pay on the normal mileage rate due to its location. That has been the intent which has received the full confirmation of the board ever since it began; and it is about the only way that industries at these competitive points can have the benefit of the competition of the two railways.

Mr. MACNAUGHT: I suppose an analogous situation would be the transcontinental competitive rates.

Mr. EVANS: I would not think so. They rest on a little different position. I am not sure that I quite understand you, but I want to.

Mr. MACNAUGHT: The transcontinental rates from Atlantic ports to Pacific ports, let us say Vancouver.

Mr. EVANS: I see your point. You mean there is some analogy because the two transcontinental lines are not of the same mileage, and the short-line mileage will fix that rate? That is common practice here and in the United States. And then again, our rate to Saint John is based on our short-line mileage, and the Canadian National, having a longer route to Saint John, probably want to meet our rate to Saint John, N.B.

Mr. MACNAUGHT: I refer also to competitive water rates which exist.

Mr. EVANS: As to the competitive water rates, I have a little different approach to them and I am going to have something to say about them under another heading. But I do want to make this other point about market competitive rates. I have two points about them: First, that the royal commission itself apparently desired to exclude them; and I want to show you why they should be excluded.

I might give you an example of a market competitive rate. The railways maintain a rate on tin-plate from Hamilton to Vancouver. That rate was established to enable the producer of tin-plate at Hamilton to meet the competition of the producer of tin-plate in the United States, located in the Pittsburgh area. It is primarily intended for that purpose, although it does gain traffic for the railways. I admit that.

But the main purpose is that the producer in Hamilton can get into the Vancouver market and sell his tin-plate. That is, on the basis of the markets, they have a rate. In other words, the railways, by making a special rate from Hamilton to Vancouver enable the producer of tin-plate in Hamilton to compete with the producer of tin-plate in the Pittsburgh area. Therefore you call it a market competitive rate.

Now then, to give you an indication of the kind of rate—I want to make my point as clear as I can—there is a rate on cast-iron pipe from eastern Canada to the Pacific coast. That rate on cast-iron pipe is established for two purposes. First, it enables the producer of cast-iron pipe in eastern Canada to sell his pipe in Vancouver in competition with the English producer. The English producer has two routes to go by. He can send his cast-iron pipe to Vancouver entirely by water, or he can ship it to the eastern sea-board and have it transhipped or transported by rail to Vancouver. Now, that is a rate which is put in to enable

one producer to get into the Vancouver market. It enables the producer to compete with the foreign producer and it also enables the railway to compete with the water route via the Panama Canal.

That is the kind of rate—the rate on tin-plate is the kind of rate—that the royal commission says is not to be included in the same grouping with these other competitive rates. I think it is obvious they are in a very different category.

Now, if I may turn again to the subject of equalization. At the outset I said to the committee that there was very much more in this bill than merely equalization. I have discussed a number of things and I have yet one more principal topic to mention that in my view is not necessarily allied to equalization as such. They are subjects that are collateral in the legislation and are not allied directly with equalization.

Clause 7 of the bill proposes to amend the Railway Act by adding a new section—that is 332A. This is the equalization section and under it is established what is henceforth to be the policy of Canada with regard to that subject. I venture to suggest that section was not an easy one to draft.

The other section of the Act, up until this new section was proposed, was not strictly speaking an equalization section at all—that was Section 314 of the Railway Act. Under that section we had equalization only if certain conditions were met and equalization under that section involved a showing that somebody was injured and that there was unjust discrimination. But, this section now in broad sweeping terms declares it to be the policy of Canada to have equalization of freight rates.

It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

Now, the first observation I want to make about that is that there are literally thousands of industries in this country, big and small, which may be affected one way or another by any policy of equalization. I want to be fair about this thing. I am for it; I always have been for it; and I was for it before the royal commission; but I would not want anybody to go away with the view that I think perfect equalization is possible in this country.

As a practical man and having had some experience in these things, I believe that it is only possible to go a certain distance. You cannot have equalization by a stroke of the pen. There are too many industries in this country whose businesses have been built up on existing markets to do in one stroke an equalization job on a rate structure that has been under way or has been growing, perhaps like Topsy, for fifty, sixty, seventy years.

So, if I may make this suggestion to you: Do not please run away with the idea that because I put some qualifications on my view as to the desirability of equalization that I mean that I am against it. I am not. But there are limits and proper limits beyond which we must not, I hope, look for complete equalization. I am going to suggest to you that subsection (1), as I have read it, is far too sweeping. Subsection (1) in terms says: "...as far as is reasonably possible." Now, anything is "reasonably possible" but what is "reasonably possible" may not be in my humble submission the desirable thing. And so, what I am going to suggest to you is a slight modification or qualification of that, but before I do I would like to tell you something about why.

It is true that the section does give broad powers to the Board and it sets out specifically certain exceptions which you will see in subsection (4) and also there is in the final paragraph of subsection (4), a rather sweeping power of the Board to make other exceptions. As I argued this morning in connection with another section—with the broad sweeping language used here, coupled with subsection (2) which says that the Board may, with a view to implementing the national freight rates policy do these things that are listed in (a), (b), and (c)—my fear is that pressure might be brought upon the Board that the Act has spelled out things the Board must do although it says “may”; and that the Board would feel that it was the wish of parliament that they try the impossible. It is because of that fear that I make the submission to you that I do.

Now, I notice that in subsection (2) the Board may, with a view to implementing the national freight rates policy require any railway: (a) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls.

I venture to suggest that requiring a single uniform scale throughout Canada as compared with say two scales may prove to be a mistake. The present Act, in dealing with the standard rates, contains a discretion in the Board to allow more than one. I am not asking the committee to say I am right and that there should be two, nor am I asking the committee to decide now that the Board should authorize more than one.

The section of the Railway Act that deals with the standard tariff reads this way, and this shows you the discretion the Board has. Section 329, subsection (1) says:

The standard freight tariff or tariffs where the company is allowed by the Board more than one...

Now, whether you call them “standard” or whether you call them the “uniform class rates scale” which is to come through equalization, my suggestion is that it is wise to leave to the Board the question of whether there should be one or more. If after the Board has investigated this question they decide there will be one, well, there will be one. What I am saying is there may be more reasons than I can make plain to you today why the Board should decide there should be more than one.

Let me indicate what might happen with regard to long haul traffic established between eastern and western Canada, including the maritime provinces. At present, when traffic moves between western Canada and eastern Canada the rates are combined—that is a term of common usage in traffic circles—the rates are combined on Fort William. By that I mean if a shipper ships anything from Ontario to western Canada, or if a shipper in western Canada ships anything to eastern Canada, the rate west of Fort William has added to it what we call a basing arbitrary.

Now, that basing arbitrary is an arbitrary amount which is based on some average mileage but is the same amount per hundred pounds, whether it goes to Montreal Toronto, Windsor, or vice versa. Whatever you may say about the arbitraries, there is no doubt about the royal commission believing they had an integral part in the rate structure. They said so. They were dealing with the maritime arbitrary in the discussion but they said arbitraries were an integral part of the rate structure.

What I am saying to this committee is the way I see this legislation it eliminates that arbitrary, and it does more than that. A further step in my example would be this. If a shipper in the maritimes is reaching western Canada he has his rate combined on both Montreal and Fort William. His rate consists of the rate west of Fort William which will be the class rate, or whatever the

rate is; the basing arbitrary for the distance from Fort William to Montreal; and then for the distance east of Montreal, what is known as the maritime arbitrary.

Now, the maritimes are very keen on this arbitrary with some reason, for it is a very low arbitrary.

Whatever you may say about arbitraries they are part of our structure and industry generally has relied on them and continues to rely on them. I am afraid that this legislation, by requiring a single uniform class rate scale, may do away with those arbitraries. That is only my view. I am sure your minds will be on it and I am sure you will be anxious to preserve those arbitraries. When we were asked to make proposals for equalization to the Board of Transport Commissioners this summer, we had not any definite proposals to make at that time but we put to the Board two studies we had made—without taking responsibility for them.

The first of them was based on the assumption this legislation would be passed and we would have a single uniform scale. The second was a modification of that scale introducing the idea of arbitraries.

What I want to say to you is this: in my view, for what it is worth, if you tie the hands of the Board to a single uniform scale you may find more disturbance with these arbitraries than if you permitted the Board as it now may do to adopt more than one scale. I make that submission in all sincerity as my considered view—that it is desirable to leave it to the Board and not tie the Board to a single uniform scale.

Hon. Mr. CHEVRIER: Well, you will have four classifications of freight rates instead of three, will you not under this legislation?

Mr. EVANS: Yes, you have.

Hon. Mr. CHEVRIER: So it is uniform to that extent.

Mr. EVANS: Perhaps I have not made my point clear, sir.

If we are talking in terms of the class rates, your commodity rates come in exactly the same category—I do not want to get into details of those rates but this subsection (2) says:

(a) to establish a uniform scale of mileage class rate;

Then, if you go into (b) you establish for each article or group of articles for which mileage commodity rates are specified a uniform scale. Now, my point is, if you are going to have a uniform scale you may be tying the hands of the Board who may find the only way possible to preserve this principle of arbitraries is to have them adopt a scale in the west and a scale in the east. I am not asking you to decide that. All I am asking you to do is to let the Board decide whether it should be one or more; and that is my suggestion with regard to that.

Mr. BROOKS: You spoke about arbitraries for the maritimes, did you mean the Maritime Freight Rates Act?

Mr. EVANS: No, sir. The Maritime Freight Rates Act—do you mind if I digress for a moment?

Mr. BROOKS: Let him go ahead, Mr. Chairman.

The CHAIRMAN: All right.

Mr. EVANS: I would like to answer these questions.

The CHAIRMAN: Go ahead.

Mr. EVANS: The Maritime Freight Rates Act is a very different thing. The Maritime Freight Rates Act—now, I don't want to get into any argument about it—as to movements on whatever the rates would normally be—these movements within the maritimes and westbound under the Maritime Freight Rates Act get a 20 per cent reduction. Now then, the maritime arbitrary

is an arbitrary amount which is added to all rates. It applies east-bound and west-bound. When a movement is west-bound the reduction under the Maritime Freight Rates Act will apply for the preferred territory which does not go to Montreal. There is no involvement of the Maritime Freight Rates Act in it at all. All I am saying is that the railways make the rates by the use of these arbitraries, by adding the arbitraries to the western rate.

Well, I do not ask you to decide in my favour or to accept my view. I do ask you to say that the board may have the discretion, if they decide that I am right, to authorize more than one uniform scale and with initially more than one uniform scale of commodity mileage rates. Those are the principles relating to arbitraries.

MR. ARGUE: With the arbitraries you mention it means that the rate from various points on the prairies are higher than they are elsewhere.

MR. EVANS: No.

MR. ARGUE: You said that the arbitrary is a straight addition to the rate.

MR. EVANS: This is a very interesting discussion for me. I do not mind it at all. If you have two points of origin and destination a long way apart and you have a single mileage scale which operates between those two points, what you have is that for the first mile in that scale higher rates than you have in the succeeding mileages. In other words what you would have would be a tapering off of rates where you have that single scale rate from coast to coast. What they do, instead of that, is to take the western scale to Fort William and western Canada and instead of carrying that scale through and tapering it they add what they call arbitraries. These arbitraries do not relate directly to mileage.

The CHAIRMAN: They are flat rates?

MR. EVANS: They are flat rates. But they arrive at the same tapering result in rates as though you had a continuous flat rate scale; and, in my submission, they will be found to have a greater effect that way in favour of the maritimes than any single class rate scale would have. I am not trying to be controversial about that but I say: Let the board decide that; do not tie their hands about it; have the board decide whether it should be one scale or two scales so these arbitraries may be used.

The CHAIRMAN: And these arbitraries will apply to the west just the same as they do to the east, is that the point?

MR. EVANS: Oh, quite.

The CHAIRMAN: You are talking to a western member.

MR. EVANS: Oh yes, well quite obviously they would apply all over the dominion.

The CHAIRMAN: I just wanted to make that clear.

MR. EVANS: Oh yes, they would be applicable in all directions.

MR. LOW: Where do these blocks which you mention come in?

MR. EVANS: I have something to say about those too.

The CHAIRMAN: Shall we leave that until then, Mr. Low?

MR. GREEN: Have you it in mind that (a) should read, to establish one or more uniform scales?

MR. EVANS: Yes, that is all it calls for, and that would apply to both (a) and (b), I am quite willing to take the time, if the committee wants it, to answer that question.

The CHAIRMAN: I think your general presentation perhaps comes first.

MR. BROOKS: Well then, Mr. Chairman, it will stand over for further consideration?

The CHAIRMAN: Surely. I am not closing it off.

Mr. EVANS: There is one thing that I do want to say to the committee and I want to be perfectly fair about it. I have observed a very considerable amount of fear expressed about the proposal put forward by the railways to the board. I want to say with respect to what we put forward that we studied the question and we did not propose this as final, or even our considered view. We put forward something that would indicate the way each of the various plans would work in here; but it must be remembered that it was only referable to the class rates.

Now, in order to put this thing in its proper perspective I should tell you this, that the Royal Commission found—and you will find this information, the first figure I give you, on page 28 of the report and the other one on page 33 of the report—the royal commission found that of the traffic originating in the maritimes 93 per cent is moved on commodity rates and not under class rates. Now, it would not be putting this in proper perspective if I did not tell you this; 7 per cent only of the maritime traffic moved under those class rates about which so much concern has been expressed. With regard to the prairies, 90 per cent moves on commodity rates. Now, I also want to say this; that as between eastern and western Canada by far the greatest differences in the rate scales are in the class rates and not on the commodity mileage scales. There are just as many of the commodity rates which are lower in the west as there are such rates lower in the east; and I could give you a list of them. I did give them to the royal commission and I did give them to the board. So that we must not judge the results of equalization solely by reference to class rates which apply only to 7 to 10 per cent of the traffic. The differences as between the east and the west are very largely centered in the class rates.

Mr. GILLIS: For my benefit, Mr. Evans, would you mind explaining the difference between commodity rates and class rates?

Mr. EVANS: I would be glad to, sir. Class rates are basic rates. As you probably know, the railways have to carry all traffic for everybody of every description, and this is what the railway does. When it sets out to do business it has to take all the commodities that can be listed and try to classify them. It classified those commodities according to value and roughly the cost of carriage and the ability of the particular commodity to bear the rate; and with those general principles in mind it develops a freight classification. And I would like just to say this, that we have a uniform freight classification in Canada, which is something that the United States has never had as yet; so that we are not so far behind them in this country. Now then, all articles are classified and under the various columns you find the class rate. Sometimes the class is different, it usually is different, with respect to a carload as compared with less than carload shipments. It may be different if it is shipped in certain ways; if it is disassembled knocked down, it would have a different classification; if it is built up and bulky it will have a different classification; but every commodity somewhere in the classification as a class assigned to it. Now, if you want to find the rate it moves as you go to the class rates tariff—and this tariff does not mention commodities at all—but it has the rate for different mileages for different classes; and when you find your mileage you find your commodity and class, and then you go to the class rates tariff and you will find the rate in that tariff; and the commodity mileage rates are quite different, since they apply to specific commodities without reference to classes.

I don't want to make a speech, sir; I do not want to take all this time on a matter of this kind.

Mr. BROOKS: It is very instructive and very interesting.

Mr. EVANS: I am trying to help everybody who wants to be helped.

Mr. BROOKS: You are doing fine.

Mr. EVANS: Commodity mileage rates specify the commodity rate or rates which are applicable to the commodities named in the tariff. You will also find that there are certain classes of commodities which have their own rates because of their bulk; for instance lumber, sand, pipe and so on. Grain moves on a mileage scale. Brick and tile move on a mileage scale. Those scales are special scale rates lower even than the class rates applicable to those commodities. A lot of these commodity mileage rates are of general application and are not to be confused with specific commodity rates which are made to meet local conditions. These rates move considerable traffic in this country.

Mr. GILLIS: What is the difference between the mileage and the class rate? Would the class rate generally be higher?

Mr. EVANS: By and large the class rate would be higher. We have two kinds of class rates, the standard and the distributing class rates, which are lower.

The CHAIRMAN: Are there any class rates within the commodity rates?

Mr. EVANS: I do not think so.

Mr. JOHNSTON: A little louder, Mr. Chairman; we want to hear that conversation.

The CHAIRMAN: I was asking him if there were any class rates within the commodity rates.

Mr. EVANS: There are cases where a special commodity rate is determined and published by reference to the classification; for instance instead of taking the regular fifth class it will provide that a commodity takes seventh class.

Mr. MACDONNELL: Could I ask a question there? I think you have made very clear the commodity mileage rate and the commodity special rate. I wonder if you could give me an illustration of the class rate. I am not quite sure that I have got that yet. Could you give us an article that moves on a class rate?

Mr. EVANS: I suppose, canned goods; is that fair? In that case you look in the classification and you find canned goods assigned to the fifth class, and then you look in your tariff to find out what the class rate applicable to that is.

Mr. JOHNSTON: Could you give us an example, let us say, of canned goods moving from Calgary to the maritimes and from the same table the class rate for moving the same commodity from the maritimes let us say to Calgary?

Mr. EVANS: We would be glad to get that for you.

Mr. JOHNSTON: Would the rate be exactly the same both ways?

Mr. EVANS: The maritime freight rates act reduces the proportion of the rate referable to the maritime preferred territory west-bound.

Mr. JOHNSTON: There would be a difference in the rate?

Mr. EVANS: Yes, the west-bound rate would be lower.

Mr. Mutch: It would get the benefit of the 20 per cent reduction under the Maritime Freight Rates Act?

Mr. EVANS: That is right.

Mr. BROOKS: You don't sell any canned goods from the maritimes in Calgary, so don't worry about that.

Mr. JOHNSTON: I was just wondering if the rates would be the same?

Mr. Mutch: In the class rates it is based on what the traffic will bear.

Mr. EVANS: All rates, I think it is fair to say, are on that basis, not all that the traffic will bear, because the board sees to it that we cannot get beyond a certain amount of money in toto, and that burden is distributed on what the traffic will bear, relatively.

Now I have one remaining point I would like to talk about, the trans-continental competitive rates, which are dealt with under section 332(b) of the

bill. Now this section contains an elaborate provision intended to give effect to the recommendation of the royal commission at pages 100 and 101 of the report.

Mr. CAVERS: A little louder, please.

Mr. EVANS: Pages 100 and 101 of the royal commission report. In substance it is a recommendation under which, if the railways either have established or desire to establish competitive rates between eastern Canada and the Pacific coast points to meet water competition via the Panama canal, they must establish rates to all intermediate points, and indeed all intermediate territory in western Canada, on the same commodities not more than one-third greater than the transcontinental competitive rate. I feel bound to say to you that we are opposed to this section. I submit if it is enacted it may result in a breakdown of the entire rate structure, may cause substantial losses in revenue to the railways and may lead to a defeat of its purpose because it will not any longer be possible to maintain the same low basis of transcontinental rates to meet this competition.

Now, at first glance the recommendation of the commission may seem to be reasonable and I would like the indulgence of the committee while I examine the problem that was facing the royal commission when it made that recommendation. The problem is one of some difficulty to the railways. The problem is essentially this, and this is amply borne out by the royal commission report, because I am not stating anything controversial. The royal commission points out in its report that the railways are particularly vulnerable to competition because of the way they make their rates, and my principal objection to the application of these transcontinental rates increased by one third to intermediate territory is that it does not seem to me to be possible to accede to that principle and not to apply a similar principle to all our truck competitive rates, in which event all territories, all rates might have to come down to a competitive level.

Now, the reason we are vulnerable in these cases is that we have an obligation to carry all traffic. The high grade traffic provides relatively greater margin over the cost of carriage than does the low grade traffic. Now, then, if you are going to make competitive rates the standard of reasonableness of other rates, which I submit is basically the proposition, what you do is you either prevent the railways from meeting competition by lowering rates where they have to, because they have to apply it to other places, and other commodities, or you are going to prevent them meeting it at all, because they cannot afford to. Now, one of the things in this bill, the one that I discussed this morning, had to do with the things that we must do to satisfy the board that we are meeting competition, that our rates are no lower than are necessary to meet the competition, so that we cannot be accused of discrimination. Now, when we turn to the transcontinental rate question, if we make a transcontinental rate under this legislation to meet competition, and assuming it is no lower than is necessary, assuming we have satisfied the board under section 331, that it is no lower than is necessary to meet the competition, if we have to apply that rate or something slightly in excess of that rate to the whole western territory how can we satisfy the board that we are going to enhance the revenue of the railway? The answer is we could not satisfy the board if in the process of meeting competition we had to give the benefit to the whole territory. Now, what this section does is this—if I may digress for a moment—in the United States, in the Interstate Commerce Act there is a declaration of policy and the declaration of policy involves a declaration which is designed to protect the intercoastal water carriers operating between the east and west coasts of the United States. As a result of that policy the American railways are limited in their ability to meet that competition, and they have what is known as an intermediate point rule, and that rule is merely this, that the railways may not publish rates between eastern United States and

western United States to meet that competition unless they are prepared to apply that rate to other points on the same line. Special circumstances may intervene, and in special circumstances on a showing by the railways that these conditions exist the Interstate Commerce Commission is empowered to give relief against that provision; but by and large, with regard to the transcontinental rates, the railways do not get relief from that rule. They do not get it because of the declaration of policy in the Interstate Commerce Act under which it is the policy of the United States to protect the water carriers between the coasts.

Now, the problem that the royal commission was facing was: should we adopt the policy of the United States? They said "no"; they said they would not do that. This is what you will find in their statement on page 100 of the report. They said this: it would probably result in the cancellation of some transcontinental rates. They were dealing there with whether they would adopt the United States policy. I read:

The railways might not desire to apply low coastal rates to the intermediate points (especially if the traffic were in greater volume to such intermediate points) and might in the face of a prohibitory intermediate rule decide to cancel the low rates to the coast.

Now, that was the suggestion that they were really throwing aside. My friend Mr. Frawley from Alberta put that to the commission and the commission held against it; I opposed it, and I opposed it for the same reason, substantially, that the commission gives, that if you are going to tie the hands of the railways and force them to go through a lot of procedural difficulties to get.

The CHAIRMAN: Would it interfere with your presentation too much—could you give the committee now the volume involved?

Mr. EVANS: Of transcontinental traffic?

The CHAIRMAN: Of transcontinental traffic.

Mr. EVANS: We will get that for you.

The CHAIRMAN: And I take it that in the total of transcontinental traffic the acute problem in regard to the ceiling of the one-third mark-up will only occur, again, in a percentage of the cases. Could we have that percentage so we will have the true impact, the weight of the problem?

Mr. EVANS: Yes, but may I make this clear to you, while I am going to give you an example of the difficulty under this section I want to put this to you, that if you adopt that principle your problems will only begin. Let me give you this illustration right now.

Hon. Mr. CHEVRIER: Before you leave that, to add to what the chairman has asked, I, too, would like to know what volume of traffic moves on a transcontinental rate plus what volume of traffic moves to intermediate points on the transcontinental rate.

Mr. EVANS: I am afraid I cannot give you that in a time short of two weeks.

Mr. MACDONALD: The witness has suggested that the railways may have to abandon this transcontinental rate, so it may be inferred that they must have the information.

Mr. EVANS: It is very difficult. The minister asked the amount of movement on the transcontinental rate—I think I can give it to you with a reasonable latitude. But when you come to taking the volume to all intermediate points I have a problem that will take some weeks to solve. I will take it up with our traffic people immediately, though.

Mr. LAING: Could Mr. Evans give us his interpretation of rate plus one-third for intermediate points? It is not clear in the report. Is it straight line intermediate points?

Mr. EVANS: All the territory in western Canada.

Mr. LAING: Including Dawson Creek?

Mr. EVANS: Yes. I am going to give you that example. I picked on canned goods because it is an extreme case. Transcontinental competitive rate on canned goods is now \$1.57 per hundred pounds. The present rate on canned goods to Calgary and Edmonton is \$2.97 per hundred pounds. The rate to Dawson Creek is \$3.81 per hundred pounds, and the rate to Brandon, Manitoba, is \$2.15 per hundred pounds. Under the proposed amendment, if the transcontinental rate is not increased or cancelled the rates to all inland points in western Canada on canned goods shipped from eastern Canada would be reduced to \$2.09, that is one and one-third times the transcontinental rate of \$1.57. Thus the Dawson Creek rate will be reduced by \$1.72 per hundred pounds, which is more in amount than the competitive rate, and the Brandon rate would be reduced by six cents. Now, these points would have the same rate despite the fact that the haul is 1200 miles longer to Dawson Creek than it is to Brandon, and the loss in revenue per car of 70,000 pounds destined to Dawson Creek would be \$1,204 per car, and the loss on a car to Calgary and Edmonton would be \$616.

Now that does not end it because, you see, what happens is that Brandon gets a reduction of six cents and Dawson Creek gets a reduction of \$1.72. But Brandon says, we are 1,200 miles nearer to our source of supply than Dawson Creek; why do we not get a little lower rate, because we are nearer? If you think that is just conjuring up a difficulty, let me quote the *Regina Leader-Post*, because after I prepared myself to come here, I was shown an article in the *Regina Leader-Post*.

The CHAIRMAN: I do not want to be arbitrary, Mr. Evans.

Mr. EVANS: I just want to show you what others are thinking about it because it seems to me to be vital.

The CHAIRMAN: I think you have already shown us without newspaper comment.

Mr. GREEN: Well, it might be quite helpful, Mr. Chairman.

The CHAIRMAN: All right.

Mr. EVANS: This is what they are asking for:

Regina and Saskatoon are entitled to rates below that ceiling because they are closer to the eastern points of origin.

All you do is to flatten out the rate all through western Canada to one-third greater than the competitive rate, and then you have the claims coming in from Brandon, Regina, and Saskatoon.

Mr. MUTCH: And from Winnipeg.

Mr. EVANS: And from Winnipeg, perhaps. They will say: we are closer to our points of origin; why should we not have the benefit of our geographical nearness to the points of origin? And then you start to break down, as you have already broken down, and the next step is—and I am really being serious about this—the next step is, how in the world can we avoid applying that principle to other competitive rates, because it is only a question of time.

Mr. Low: What is broken down? You have canned goods going from Toronto to Calgary for \$2.68, and to Vancouver for \$1.40, which is 715 miles further?

Mr. EVANS: It has broken down the normal rate and the board has said, quite properly, if you are going to use competitive rates to justify or establish the reasonableness of other rates, you break down your rate structure, and you should not have competitive rates where there is no competition.

We put in a competitive rate because if we do not put it in we lose the traffic. And who suffers if we do not get the traffic? If our line does not operate

at full capacity and we let somebody else take the traffic, who suffers? It is the fellow who is moving his goods on our line, because with competitive rates in effect we are carrying them at lower freight rates, but providing all the traffic we can carry. But if we did apply that competitive rate to intermediate points, then the railroad would be carrying all the traffic at less than it should be carrying it for, and therefore the railways would be in bankruptcy. You can do one thing or the other. You can prevent the railways from carrying this traffic at competitive rates, or you can allow them a reasonable latitude to meet competition. But you can protect the public. You can protect them against improper competitive rates. That is already being done by section 331 of the Act. In other words, the railways if required will have to justify that the competition exists and requires that rate to be established; and if that rate is not compensatory, then the board will not allow it.

Now, if it is compensatory, is it not proper that we carry it at a small margin, if we can get that traffic by no other way? The answer is that all rates would have to go up if we did not carry it. I am just as interested as you are in seeing that there is a reasonable latitude in the way of restrictions upon meeting competition as we meet it.

Mr. JOHNSTON: Do you consider the rates charged there now, as Mr. Low has indicated with respect to canned goods and so on, the best you could do to assist us in the prairie provinces? You will read about it in the newspapers because it very definitely affects them.

Mr. EVANS: I am not a traffic man but I shall say this: that the railways are not making any money today. There are rumours to the contrary, but the fact is that they are not.

Mr. JOHNSTON: That question is debatable, of course.

Mr. EVANS: It has been debated, and I think it is quite clear that we are not making money, not enough money.

Mr. Low: That is not the reason why certain areas in the country should pay for lower rates in other areas.

Mr. EVANS: No. The only reason to justify that rate is the fact that you cannot get that traffic unless you are willing to give that low rate to meet the competition.

Mr. Low: But when you make a lower rate to meet competition on the one hand you put it up in the intermediate areas to make up for any loss.

Mr. EVANS: No. You do not put it up. That is exactly the reverse of what is true. If we did not meet this competition, if we did not carry this traffic, and if we let the competitor have it, my opinion is that the rates would be a lot higher to those other points because, let us suppose your margin on this traffic to Vancouver is 10 cents. Let us say that is your margin of profit. If you had to carry all your traffic at a margin of 10 cents, the probability is that you could not afford to carry it and you would find yourself in bankruptcy because you would not have a big enough margin to carry your costs and expenses. But as between long terms, when you can contribute something to that margin by carrying that traffic, is it not more profitable for the fellow who is paying a high rate at the intermediate points?

Mr. Low: This is not taking into consideration the \$7 million subsidy that is to be applied.

Mr. EVANS: Oh, no. The consignee will get the benefit of that.

Mr. Low: It ought to be reflected in these rates and particularly in the intermediate rates.

Mr. EVANS: It ought to be reflected in the rates but it would not be reflected in the competitive rates because if you lower them more than is necessary to meet your competition that is discriminatory.

Mr. Mutch: I think there has been a certain casualness about competitive rates particularly in the eastern areas, because if they lose a little money on them, they can take it out of the rest of us in the east and west who cannot do anything about it.

Mr. Evans: You will not find any comfort for that story in the royal commission's report.

Mr. Macdonald: Was any of this material presented to the royal commission?

Mr. Evans: This particular remedy? No. Mr. Frawley's remedy, yes, but the royal commission ruled against it.

Mr. Macdonald: What about the submission you are making with regard to transcontinental rates and their application eastward?

Mr. Evans: Not that we know of. I argued against Mr. Frawley. Here is something in this bill that was not advocated by Mr. Frawley, by any of the provinces, or by anybody before the royal commission.

Mr. Macdonald: But it is advocated by the royal commission?

Mr. Evans: Now, yes, but on what basis I do not know. I do not know where it came from.

Mr. Johnston: Is it not true that Mr. Frawley made that submission before the royal commission?

Mr. Evans: Not this one. He wanted to have the American rule applied; but the commission said "no" because it would probably cancel a lot of the transcontinental rates.

Mr. Low: There is one thing I do not quite understand. Do I gather that Mr. Evans intimated the possibility that the railways would have to abolish the present favourable transcontinental rates if this one-third ceiling over the transcontinental rate is going to apply to intermediate points?

Mr. Evans: We might have to increase them so that we would not have the one-third rule apply.

Mr. Low: Even if you consider the \$7 million subsidy?

Mr. Evans: I do not think it will go to the relief of the competitive rates. So far as that subsidy is concerned, it might be that it would affect the intermediate rates and it might serve to reduce that gap, whatever the gap was. We would have to close that gap in a great many of these rates; and as we could not afford to meet competition on this traffic, if we closed the gap, I do not know what would happen to the traffic. It might dry up, or the boats might start again to operate between east and west via the canal. I cannot venture to prophesy.

Mr. Argue: But this formula, if it is approved by the House and becomes law, will reduce the freight rates on certain goods to people living in the prairie provinces?

Mr. Evans: As long as the transcontinental rates are kept at the level they now are. If we are going to meet that competition and if we have to give that low rate to meet it, it will have the effect of reducing the rates.

Mr. Johnston: You are referring solely to water competition going around by the Panama Canal when you speak of competition?

Mr. Evans: Yes, or potential water competition.

Mr. Macdonnell: Not to American competition?

Mr. Evans: No, but I can give you rates which are affected by American competition. One would be the lumber rate from British Columbia. They are always attempting to apply the Seattle basis to British Columbia lumber. I think there has been some kind of an agreement made recently which would

restore the Seattle basis. And there are other factors. But the transcontinental rates so-called are those where competition with water is actual or potential, I mean water competition.

Mr. MACDONNELL: I take it that it is assumed that it pays the railways to carry goods to the coast at that competitive rate, and if they lose that business, they would have to increase their other charges. In other words, it is based on the supposition that it is profitable to you.

Mr. EVANS: Yes, but it does not get as much profit in it per unit.

Mr. MACDONNELL: But there is some.

Mr. EVANS: Yes, as long as it has got some, it is of benefit to everybody.

Mr. Mutch: If there is any profit at \$1.40, there must be a substantial profit for a 700 mile haul at double the price.

Mr. LAING: Would this not mean that the loss of revenue to the intermediate points would necessitate raising the transcontinental rates? It would be interpreted as one and one-third; that brings it up.

Mr. EVANS: If we increase that canned goods rate to the rate, let us say, from the east to Calgary, just taking it out of the air, then it is not more than one and one-third times greater than the present rate, that is, the one we would have under this section.

Mr. LAING: The base rate would have to be increased?

Mr. EVANS: Yes.

Mr. JOHNSTON: Is it true that you are making a profit on the \$1.40 rate to Vancouver?

Mr. EVANS: Yes.

Mr. Low: Then why do you say it would be necessary to increase the base rate under the one and one-third formula?

Mr. EVANS: That is not an easy question to answer but I shall try. If you are carrying, let us say, "x" million tons of freight, and that "x" million tons has to provide a certain requirement in overall net profit to keep the railway operating, is it better or is it not, to have some extra hundreds of thousands of tons, let us say, so as to provide a profit? Does it not reduce the sum total that must be contributed to by other traffic? It is just as simple as that.

The reason we are interested in this is that we do not carry our traffic solely on the basis of cost. The high grade traffic contributes largely to profits, while the low-grade traffic does not. The only way we can carry out our obligation to carry all traffic is that we have to move the low-grade commodities at low-grade rates, where there is practically no profit in them; and we have to get more profits from the high-grade traffic. But the unfortunate part of it is that the competitor, be it the water or the truck competitor, can take the high-grade traffic away because he has got a margin and he can take it away, whereas we have to carry all traffic; he can carry it and make money because he does not have to carry the low-grade commodities. It only means one thing. When we reduce the margin on high-grade traffic, we have got to increase our margin on low-grade traffic. There is the rub; and the royal commission were quite with us on it when they said that we were very vulnerable to that sort of thing. But at the same time they said in effect that it was the right basis for Canada, because they rejected British Columbia's proposal to do it on a cost principle.

Mr. Low: I do not think Mr. Evans would argue that there is any immediate likelihood of their having to raise those base transcontinental rates.

The CHAIRMAN: I wonder if it would not help the committee if you could make available to us a break-down in percentages of your costs? You have to

maintain your road-bed, whether you are hauling freight over it or not. Could we have the cost of road maintenance and the running costs and the cost of general overhead, or some sort of break-down?

Mr. EVANS: I do not think it would help you, but I would be glad to give you whatever you want. The difficulty is to get it tied into a particular movement.

Mr. MUTCH: Is it not a fact that neither of the railroads has any idea of their actual unit costs? Is it not a fact that neither of the railroads has ever been able to set forth their actual unit costs?

The CHAIRMAN: No. I asked for a general breakdown of costs? I think the railways must surely know what it costs them to maintain their road-bed?

Mr. EVANS: I think I can give you that.

The CHAIRMAN: And for their total running costs in a given period of time and for their total general over-head within a given period of time. My friend from the west finds it very difficult to understand why you could not haul the canned goods at \$1.57, which is the new rate, the transcontinental rate, and make a profit; and why you should make an unreasonable profit if you charged \$2.97 to Calgary?

Mr. Low: 750 miles less.

The CHAIRMAN: If we could have that general break-down, I think perhaps it would help us.

Mr. MUTCH: We not only cannot understand it, but we doubt it.

Mr. EVANS: The answer to that is simple. Even if we are making an unreasonable profit in toto, we would be told by the board to reduce the rates. But the board has found that we are not making any profit.

Mr. Low: The fellows in the west who are not able to shout loudly enough to get a reduction are having to take it in the neck.

Mr. EVANS: But those conditions are even more pronounced in eastern Canada because we have more competitive rates. We have a lot more competitive rates and there are a lot of people, because of the competitive rates, get lower rates than their neighbours. It is just as bad in eastern Canada. The more competition you have the more difficulties you have.

Mr. MUTCH: I think Mr. Evans put his finger on it a moment ago when he said: "if their profits were too large in the aggregate"—but we who live in the west are not too much interested in the aggregate profit. We are interested, however, if we have to pay two cents too much for a can of goods in Winnipeg or in Brandon—in proportion to the service the railway is performing for us.

I think I speak the mind of a large number of western people when I say we find it hard to believe that we are not being rimracked on intervening rates. We not only cannot understand it but we believe we are being rimracked. There is a gap somewhere between eastern Canada and Vancouver. There is a point where at least I think we are paying too much. It is not shown and nobody is prepared to do anything about it because in the aggregate the profit may not be too large. I do not care whether the profit is large or small but we, as individuals in western Canada, want to get a square deal. That is the problem and we have not had too much luck with it either from the commission or here.

Mr. EVANS: I would like to say this to you.

Mr. Low: We know you are under a handicap and our sympathies are with you.

Mr. MUTCH: We are asking him questions but we do not let him answer.

Mr. EVANS: You can pummel me as much as you like, as long as you are not bored with the speeches I make. I want you to be free but I think with all respect it is an extremely superficial view and I will say this.

We are carrying 50 per cent of all traffic from Saskatchewan, for example, at rates that were made in 1897 and we are losing money.

Mr. Low: Have you shown that to the commission?

Mr. EVANS: We offered to.

Mr. Low: I have not been able to find it.

Mr. EVANS: They would not let us.

Hon. Mr. CHEVRIER: You are thinking of the Crow's Nest rates on grain.

Mr. EVANS: I am not being resentful but I say surely somebody has to pay more than they otherwise would—

Hon. Mr. CHEVRIER: But we have decided not to look at the Crow's Nest rate.

Mr. EVANS: And I am not asking you to, but you cannot accuse me of making too much profit out of a can of peas when you won't let me make money out of wheat.

Mr. MUTCH: You are making a profit on a can of peas if I am paying 2 cents more than Mr. Green does in Vancouver—and yet I am 700 miles nearer the factory. In the aggregate you may not be making too much money but if you make one cent out of me in order to perform that service for me then I, and all like me do not like it.

Mr. GREEN: Why do you not pay more on wheat?

Mr. MUTCH: Why not? I think we paid that already. Let us not get into that. You and I will not live long enough to get back what we paid for that.

Mr. JOHNSTON: That is not the point as I see it. We are discussing transcontinental rates and Mr. Evans has stated that on the rate to Vancouver they do make a profit.

Mr. EVANS: Yes.

Mr. JOHNSTON: It does not then seem unreasonable to suppose that we in western Canada are paying not only a charge which would give you a reasonable profit but we have to pay an excessive profit.

The CHAIRMAN: I take it you are supporting this legislation.

Mr. JOHNSTON: We will see, Mr. Chairman, but it seems to me very unreasonable to suggest, on the railways' part, that western Canada should be penalized over and above that amount which would give you a fair and a reasonable profit.

Mr. EVANS: But it does not.

Mr. MUTCH: In the aggregate.

Mr. JOHNSTON: You said you were making a profit?

Mr. EVANS: It contributes something—not profit but something—to the overhead cost.

All I am saying is I do not know what it is but we showed the royal commission all these competitive rates were yielding more on the average per car mile than the traffic taken as a whole.

On this transcontinental traffic, moving in this particular case canned goods, they are in 70,000 pound lots. It is not every place in western Canada that can use that much. We make these lower rates to put more in a car and in this particular case you have to move 70,000 pounds to get the rate. Anybody in western Canada who, under this legislation, wants to get the rate at a third will have to put 70,000 pounds in the car.

Mr. MUTCH: We may be able to afford it when we get this rate.

Mr. STEWART: Have you estimated on that whether or not there would be an increase in your business in the west commensurate with any loss you might take?

Mr. EVANS: We have not, no, but I do know that we have had traffic people around our place for a great many years and their judgment—

Mr. JOHNSTON: Maybe they are getting too old?

Mr. EVANS: Their judgment, and the board's judgment support us. Their judgment is it is a wrong principle to introduce and it is certainly a principle which the royal commission rejected.

Mr. JOHNSTON: I think Mr. Stewart has brought out a good point—that if the rates were reduced, say to the prairie provinces, the indication is, and the commission points this out, that there would be an increase in production and in manufacturing which would increase the business of the railways. That might very easily, in fact I think it would, compensate you for any loss that you may incur?

Mr. EVANS: Well, sir, I cannot argue with you; all I can say is the judgment of the railway traffic people is against you, and my own judgment for whatever it is worth—and it is very limited in this case—is also against you.

Mr. JOHNSTON: The commission report points that out very clearly?

Mr. EVANS: It may do, but I do not know what part of the commission report you have in mind. However, I would like to point to one part of the report that supports me in the point I am making here. That is on page 86, where this is what they have to say on competitive rates. This is at the top of "conclusions".

Competitive rates are an important factor in the rate structure. No one who appeared before the commission advocated their abolition.

The railways should neither be denied the right to meet competition nor, when once they have decided to publish competitive tolls in one area, be forced by law to apply these same tolls to other regions where competition between transportation agencies is non-existent.

Mr. Low: Of course, the legislation now before us does not attempt to force you to use competitive rates or to apply competitive rates to the intermediate points. They give you the leeway of a third?

Mr. EVANS: Yes, they give us a leeway of a third but instead of applying it to the intermediate points they apply it to the whole western territory—which breaks down that rate structure which, the Board has said, is fair and reasonable today.

In the 1925 general inquiry this whole question was debated before the Board of Transport Commissioners who said these transcontinental rates served a useful purpose in the rate structure and that they were of benefit to everybody.

Now, I cannot give you any more than my own opinion and the board's opinion and that of the royal commission which says that we should be allowed to meet competition.

Mr. LAING: Have not the rates to Alberta contributed to the development of a very, very considerable canning industry there? Is it not correct that you have a very large canning industry there?

Mr. JOHNSTON: Despite the discrimination of freight rates.

Mr. LAING: Because of them, I would say.

Mr. JOHNSTON: No.

Mr. LAING: Your laid down cost in the east enables your cannery to compete?

Mr. EVANS: As a matter of fact I would like to pursue that point because I think you have something that is perhaps not generally understood.

We had a very considerable discussion at the royal commission about the need for developing secondary industry in western Canada and one of the

greatest arguments that was used against us was that the freight rates were too high. However, if you stop to think about it the higher rates between eastern and western Canada make it more difficult for the eastern producer who has to get into western Canada and more easy for the western producer to set up a plant in western Canada and to go into industry of a secondary nature. So, it is not just quite as simple as saying that the rates are so high that it prevents local industry from developing in the west.

Mr. Mutch: Against that everybody who has thought about it realizes that the potential market is concentrated in central Canada. A manufacturer, in order to develop any sized industry has to be able to manufacture in quantity and to compete with the eastern producer in spite of the disadvantage of freight rates—and the eastern producer has a far wider market. We have a smaller market in Manitoba than in the city of Toronto. Mass production being what it is, your suggestion is of little value. More than that, you can take a bundle of merchandise from Winnipeg to Toronto, and send it back, never having taken it out of the bundle, for less money than it costs to send it down. When you talk about encouraging industry in western Canada, unless you take into account the difference in markets, the comparison has no meaning.

Mr. Low: There is also the very long l.c.l. haul that it takes to get to the market.

Mr. Mutch: Some of our manufacturers are in the Toronto market and also in Montreal in the clothing industry, but it took a war and the grace of God to get them there.

The CHAIRMAN: Well, the witness has had a little rest now and perhaps we can get on.

Mr. Macdonald: I wonder if we could get on to cast-iron pipe?

Mr. Mutch: Do you know where there is any?

Mr. Evans: What do you want to know about cast-iron pipe?

Mr. Macdonald: Well, the industrial aspect—

Mr. Gillis: May I ask a question?

You told us a moment ago that 93 per cent of the maritime freight moved on commodity rates, and the figure was 90 per cent in the west. What percentage moves on commodity rates in central Canada?

Mr. Evans: I think it is less than either of those but I will look it up for you. My friend, Mr. Spence, tells me it is 80 per cent in central Canada.

Mr. Gillis: 80 per cent?

Mr. Evans: Yes.

Mr. Gillis: There is another question I would like to ask you. There was a discussion a moment ago regarding that 70,000 pounds of freight moved a certain distance at a certain rate. How does that rate in western Canada compare with the Quebec and Ontario rate for the same amount moved an equal distance?

Mr. Evans: My friend, Mr. Jefferson tells me the fifth class rate for canned goods is higher in eastern than in western Canada for an equal distance.

Mr. Gillis: It is higher?

Mr. Evans: Yes.

Mr. Gillis: What I would like to know is how much higher? So we will get some idea what the discrimination is. A lot of statements are made from time to time which sound pretty bad and I think this is the proper time to get them ironed out?

Mr. Evans: I will be quite happy to do that.

Mr. GILLIS: You gave us a concrete example for western Canada and I wonder if you could put on all fours beside it exactly what the situation is in the central provinces?

Mr. EVANS: What we have been dealing with is not the situation in western Canada. I am dealing with the rates from eastern Canada to western Canada or the reverse. They are transcontinental rates and they are not tied up to the rates locally in western Canada or in eastern Canada. I have not been dealing with rates in regions at all.

I want to be helpful and I will say this to you: we had a witness in one of the earlier rate cases, a Mr. Moffatt from Manitoba. I have very high respect for his ability. Mr. Moffatt tried to assess the problem in a very ingenious, although in my submission at the time a somewhat erroneous process. He tried to assess the difference between the east and west in terms of, first, having regard to what traffic moves; in other words, he started off by trying to find out what eastern traffic would cost moving at western rates or what western traffic would cost moving at eastern rates; and the first time he presented that in the 21 per cent case he found a difference of approximately 13 to 14 per cent; that is, he found the balance was against the west. Now, in that he had all the competitive rates in eastern Canada taken into account, and he found that the difference was 13 to 14 per cent. Now, when an overhaul of freight rates was undertaken, which was immediately after price control was removed, there has since been a continuous increase in competitive rates, and people do not realize how extensive that has been. That same process, with all its faults, showed an approximate equality in rates as between east and west; and there is an approximate equality in the royal commission study—there was an exhibit filed for the purpose. I take no responsibility for Mr. Moffatt, and I said with respect to his study that it was in my opinion defective in certain respects; but what was shown to be a difference of 13 to 14 per cent has now become an equality, or it had become an equality in 1950.

Mr. GILLIS: Does that add up to the fact that generally freight traffic was heavier in Ontario and Quebec and that contributed largely to the equalization?

Mr. EVANS: I am not sure that I understand you, but there is no doubt about the equalization in that respect at the present time.

Mr. GILLIS: What I mean is this, the 21 per cent authorized at that time would apply to east and west and was not applied to central Canada?

Mr. EVANS: Oh, it was made the same.

Mr. GILLIS: Then your short haul would make up the difference.

Mr. EVANS: Yes, the short haul makes up the difference.

Mr. GILLIS: And it is a big difference.

Mr. EVANS: Yes.

Mr. GILLIS: These two provinces are the main centres of population and that is where your main markets are and the shipper in the central provinces controls the market because he is close to it.

Mr. EVANS: Quite.

Mr. GILLIS: And it is much more difficult to get anything from the east or the west into your main market for that reason.

Mr. EVANS: I think that must inevitably be so, and I venture to hope we will never get in this country to the point where we put on the railways the burden of equalizing that.

Mr. GILLIS: I thought this morning that you made a first class argument for a national transportation policy that would bring within the Board of Transport Commissioners equality of competition so that all difficulties in regard to marketing might be considered and brought under one head.

Mr. EVANS: That was not the point of my argument.

Mr. GILLIS: Well, it was a first class argument anyway.

Mr. EVANS: No, I was not getting into that field although I think there were some members of the committee, including the chairman, who thought that I was. The first point is that you do not want to tie the hands of the railways. I was not making any suggestion that it should be dealt with in such a way; but I say, while we have this condition, don't tie the hands of the board so we will not have the right to meet that competition if it is fair competition. If it is fair competition we can meet it on equal terms all right and if it is not fair competition and nobody can do anything about it then let us have the right to meet it within reasonable means.

Mr. MUTCH: That will hinge on what constitutes fair competition.

Mr. EVANS: I agree.

Mr. MUTCH: Is anything which cuts down your profit unfair competition?

Mr. EVANS: No.

Mr. JOHNSTON: But don't you have the right now within this legislation to meet any competition because of your agreed charges as provided for in this legislation?

Hon. Mr. CHEVRIER: No.

Mr. EVANS: No.

Hon. Mr. CHEVRIER: Your point is covered; you are quite right in your argument, in 331.

Mr. JOHNSTON: Yes, sure.

Mr. EVANS: That is the exception to the transcontinental rate—I would be inclined to argue that that is not a point for revision of the Transport Act.

Hon. Mr. CHEVRIER: No.

Mr. EVANS: I do not think it was intended. We have to have prior approval.

Mr. JOHNSTON: Oh, you have to get it.

Mr. EVANS: Yes.

Mr. ARGUE: Did not Mr. Evans in his submission to us this morning in connection with this point refer to the fact that they had the opportunity of bringing competitive rates to meet competition and that they should not be handicapped in any way in doing that? That being so, I wonder why the railways have not been able to meet the competition of trucks at points such as London, Windsor, Hamilton and so on.

Mr. MUTCH: Let's not start a discussion on that.

Mr. ARGUE: Just a couple of years ago—I do not know just when it was—I saw these large car-carrying trucks carrying four or five automobiles out west. We didn't previously see them; cars used to come out by rail; but the situation now is that you do not see automobiles on the railways at all. Now, what was the basis for that.

Mr. EVANS: I don't know. That has been a serious development here and we are trying hard to meet competition of that kind.

Mr. JOHNSTON: Then we should not be worried about truck competition.

Mr. MUTCH: This morning we did not allow Mr. Evans to bring the truck industry in and I do not think we should do it now.

Mr. ARGUE: I did not intend to bring the trucks into it only we had been discussing water and truck competition most of the day.

Mr. Low: Mr. Chairman, I do not get this business of the transcontinental rate. If I understood Mr. Evans when he first started to talk about equalization he indicated that if he followed the third scale as outlined in this bill, section 332

—if that is adopted it is possible that the railways likely would have to increase the transcontinental rate from what it is at the present time. I do not know whether that was his point or not.

Mr. EVANS: It was not intended as much.

Mr. Low: It was anyway an indication of what they would have to do. On page 101 of the committee report there is a schedule showing tariff rates to intermediate points as well as the present transcontinental rates to Vancouver. With respect to canned goods, for instance, I understand that the present transcontinental rate is \$1.57?

Mr. EVANS: Yes.

Mr. Low: Which is a jump from \$1.40.

Mr. EVANS: There has been an increase since then.

Mr. Low: Yes, I understand that, and that the present all-rail rate is \$2.97.

Mr. EVANS: Yes.

Mr. Low: All right, Mr. Evans stated that under the \$1.97 rate he calculated that the railways could show a profit, let me put it that way.

Mr. EVANS: A margin or a profit—no, it is not a profit, there would be overhead costs and they have to be met as well as anything else; but it would contribute something to a reduction of our overhead. Profit is something you have after you have paid for everything.

Mr. Low: Well, that is a technical point; it shows something different over what you had before.

Mr. EVANS: In the overall picture, yes.

Mr. Low: Now, if that is true, would the people not have a right to demand from the railways that the railways should continue those rates if they are specified?

Mr. EVANS: No, sir, because we are not compelled by law to meet competition. We can let the traffic go.

Mr. Low: Oh, you don't have to meet it?

Mr. EVANS: We might have let it go. If you are going to lose money on it you are not going to try to meet it.

Mr. Low: I cannot imagine you dropping traffic that is making you a profit, or helping you to meet your overhead. I think the public might well demand action on the part of the Board of Transport Commissioners to require you to operate that way.

Mr. EVANS: You would have to change the legislation if you wanted to do that. Heaven forbid that you should do that, because you would certainly ruin us very fast if you did. The board has consistently held that the railway can meet competition if it chooses so to do so long as it does not go below cost; but it cannot be compelled to do it, it can stop meeting it whenever it wants to.

Mr. Low: It can stop meeting it?

Mr. EVANS: Oh, yes. There have been people who have protested to the board saying we can't object as long as we are getting the normal rate the same as anybody else. If the railway does not want to meet this competition it does not have to. Nobody is hurt. Take, for instance, this Vancouver rate; if the boats thought that we were not going to be in this traffic at a favourable rate they would go out after that business. We are getting the traffic for the reason which I gave you in connection with the example of iron pipe. I am perfectly certain that cast-iron pipe would get to Vancouver, it would come from the English producer by water. We have to assure the pipe manufacturers a rate which will

move that traffic from their centres to Vancouver, and in doing that we have to meet the competition from abroad because the Vancouver buyer can get it in England delivered to Vancouver at a certain price.

The CHAIRMAN: Mr. Macdonald has the floor; he has been trying to ask a question.

Mr. MACDONALD: Did I hear you properly when you said that you would not object to a one-third mark-up over the transcontinental rate to points like Edmonton providing it was only applicable to intermediate points on the direct line of transit?

Mr. EVANS: I did not say I would not object. I said, I would have less objection.

Mr. MACDONALD: Oh, I see.

The CHAIRMAN: Mr. Johnston.

Mr. JOHNSTON: Respecting this Vancouver rate, the old rate was \$1.40, and that has been increased to \$1.57; how much higher can you go and yet meet competition?

Mr. EVANS: That is a matter which I would have to ask Mr. Jefferson to answer.

Mr. JOHNSTON: Because I imagine that \$1.57 rate is still below the competitive water rate; otherwise, you might not get the business.

Mr. EVANS: No, they are a little higher than the competitive water rates.

Mr. JOHNSTON: But you are still getting the business.

Mr. EVANS: We try to. We have got competition and they are making a profitable thing of it.

Mr. JOHNSTON: How much higher can you go?

Mr. EVANS: That would depend on whether the wages of crew members on ships were increased tomorrow, or yesterday; and whether the price of coal in turn has increased; and on whether the cost of maintenance of their ships has gone up or down; and on whether they can still carry the commodity and make money on it. As soon as a profitable cargo offers these tramp steamers will start moving it back and forth, and you will even have companies in Canada perhaps building more ships to make these trips because they are assured of a profitable traffic, but they cannot be so assured as long as the railways can meet them and can give a better service, even though the railways charge a somewhat higher rate than the ships charge.

Mr. MUTCH: If the traffic would stand \$1.60 instead of \$1.57 you would charge the \$1.60?

Mr. EVANS: Sure.

Mr. JOHNSTON: Well, you were making a profit on the \$1.40 and you make a better profit on the \$1.57, and that puts the railways in a better financial position than they were in before.

The CHAIRMAN: We shall adjourn in ten or fifteen minutes and I would like to learn the wish of the committee now—is the witness willing and is the committee willing to sit tonight?

Some Hon. MEMBERS: No, no.

The CHAIRMAN: Mr. Evans, could you give us a reasonably accurate estimate of how long it will take you to complete your presentation?

Mr. EVANS: I have nothing of a general nature to make except the section by section description.

The CHAIRMAN: About how long will that take?

Mr. EVANS: It depends on how much discussion there is. Mr. Spence is going to help me on that.

The CHAIRMAN: We all have a caucus tomorrow morning, which will mean we will not have the morning sitting. I would like, if it is humanly possible, that we finish with the C.P.R. presentation by tomorrow night so that we can then have the record printed and perhaps convene again next Tuesday, and in the meantime, give plenty of time to everyone, including the provinces, who want to make representations, to check over the evidence already in. Now, if we cannot finish by tomorrow night without sitting tonight I would rather urge we sit tonight.

Mr. EVANS: I do not think I would be more than another hour if I do not have questions to answer. Mind you, I am not saying I should not answer questions.

Mr. MACNAUGHTON: Let us sit tonight and finish with it.

The CHAIRMAN: If Mr. Evans is not too tired.

Mr. EVANS: I am pretty tired.

Mr. Mutch: I think in fairness we ought to sit tomorrow afternoon.

The CHAIRMAN: And if we have to sit tomorrow night, Wednesday—

Mr. Mutch: The House is not sitting tomorrow night, however.

Mr. GREEN: Could I ask Mr. Evans a question? As I understand it, the position is this, that the transcontinental rates are competitive rates and there are many other competitive rates particularly in Ontario and Quebec. While it may be a different type of traffic, still they come under the heading of competitive rates. Now this proposal about which you are complaining in section 332(d), puts a restriction on your competitive rates in so far only as such rates are transcontinental. In other words there is no such restriction at all on competitive rates in central Canada.

Mr. EVANS: No, but I am afraid if you do the one you will lead to the other.

Mr. GREEN: I see, and if this legislation is passed in its present form there will be that restriction on transcontinental rates but not on any other competitive rates.

Mr. EVANS: No.

Mr. GREEN: What suggestions have you for changing section 332B (2) (b), or is it that you want it taken out of the bill entirely, or do you wish it amended? What are your suggestions?

Mr. EVANS: In all humbleness I hope this section will not pass.

Hon. Mr. CHEVRIER: May I add a word to what Mr. Green has said? This is a competitive rate, and the exception that is being made to the transcontinental rate will affect the intermediate territory only and not the Pacific coast territory, so that if the railway is affected at all—I am assuming that it is for the moment—it will only be affected in that part of the transcontinental rate which is for intermediate points.

Mr. EVANS: That is perfectly true; if as I said we find it impossible to maintain our competitive rates at that level it then becomes a completely new problem of whether you can afford to meet competition on those terms; if you can afford to meet it on those terms, British Columbia is not affected, but, if you cannot, British Columbia is affected in this way that it will have to rely on ships and not on the railways.

The CHAIRMAN: Is it fair to compare transcontinental rates with other types of competitive rates? Is it not true that your reduction in transcontinental rates, made on account of water competition, is very much greater than your competitive rate reductions, say, on account of trucks?

Mr. EVANS: I do not think you can generalize, but I would not think so.

Mr. GREEN: A little louder, please.

Mr. EVANS: I would not think that the reduction in the transcontinental rates is any greater than it is in the case of some truck competition.

Mr. MUTCH: When we speak of competitive transcontinental rates and that the competitor is shipping by water, before that has any validity for me, at any rate, as a real competitive rate, I would have to know where the bulk of the stuff which is shipped westward on the transcontinental lines arises. If it arises in the Toronto area, and a substantial part arises in the Montreal area, I am open to conviction, but I am frankly doubtful whether or not water transportation presents any real threat to the railway at all except in certain bulk commodities which are very heavy, and I am aware, too, of the fact that the ships do not exist—that is of Canadian registry—and even the supply of tramps is somewhat limited for the shipping of merchandise which British Columbia normally buys from the area. If you are thinking in terms of a haul from Halifax to Vancouver, then I think there is a good deal of validity in using water rates as a firm basis for the competitive rates, but I am sceptical about the water rate, at any rate.

The CHAIRMAN: What is the question?

Mr. MUTCH: There is no question. If you like, Mr. Chairman, it is a speech and that is not unusual with me, but the question comes to this: could we be told, even approximately, the percentage of shipments through the west which go on these so called competitive transcontinental rates from an area between Toronto and Montreal, which is one-third of the way across the continent to start with, and what percentage of that is actually the type of merchandise where water shipment makes any competition at all?

Mr. LAING: I was hoping that the question by the minister presaged the resumption of service by the G.G.M.M. to Vancouver.

Mr. GREEN: Is there any logical reason why the Pacific coast should be put in the position of facing the loss of benefits of this transcontinental rate, whereas the people in Ontario and Quebec are to be in no such position under this present legislation because their competitive rates cannot be changed by this one and one-third rule? Is there any logic in treating the Pacific coast one way and the two central provinces in another way in regard to competitive rates?

Mr. EVANS: I have no regional thinking whatever on it, but I say if you introduce the principle into one group of competitive rates it is only a question of time till that principle is introduced into other competitive rates. If you are going to be logical you cannot limit the application of the principle to one group only, but the royal commission certainly thinks we should be free to meet competition.

Hon. Mr. CHEVRIER: Is not the answer also to be found in section 332 (2) which seeks equalization? If it is so that the rates in western Canada are higher than the rates in eastern Canada, having regard to the Crow's Nest Pass rates agreement and so forth, then this bill should equalize this rate.

Mr. EVANS: I hope it is not the scheme of this bill to equalize competitive rates.

Hon. Mr. CHEVRIER: It cannot be the object of this bill to equalize competitive rates because you have in section 332 (4) of the bill a clause which protects the railways on that, but I think it is the intention under 332(A), that the given classification of goods moving one hundred miles in eastern Canada should have the same rate as that movement in any other region of Canada. That is my understanding of 332 (A), and that is certainly what the royal commission had in mind.

Mr. EVANS: I think, subject to one qualification and I do want to address some further remarks on that subject to the committee, and they will not be long—but I think there are some limitations.

Hon. Mr. CHEVRIER: You say subject to limitations? What is the limitation?

Mr. EVANS: Put it this way. I believe you can equalize class rates. I believe you can equalize commodity rates, rates that I call commodity mileage rates, which are a general application of the tariff rate. I do not believe you can equalize specific point to point commodity rates because they are put in to meet local conditions and local industry, and if you try to equalize them you are going to disturb a lot of industries whose rates are made for particular purposes, and I do not think you should attempt to equalize those rates; and I think that is why this bill specifically points to the equalization of the class rates and the commodity mileage rates and leaves the other rates in a general category for the jurisdiction of the board; because if you start equalizing all these specific point-to-point rates then you are in a hodge-podge that is going to overlook the reason why these rates were established.

Hon. Mr. CHEVRIER: So with the exception of these point-to-point commodity rates you think it is possible to equalize commodity rates under this bill?

Mr. EVANS: I do, sir, and we are in favour of it.

Mr. BROWNE: What percentage of these rates would be point-to-point rates?

Mr. EVANS: I wish I could tell you. All the division that we have got is the division between the class rates, the commodity rates and the competitive. I do not think there is an analysis that goes deep enough to differentiate between the commodity rates and the point-to-point rates.

Hon. Mr. CHEVRIER: May I help this question asked by Mr. Browne, if I can. It is that about 50 per cent of the traffic moves under the exceptions mentioned in 332 (4) (b)?

Mr. EVANS: Without talking about the joint international rates which obviously cannot be equalized because they are rates between here and the United States, roughly, international rates return to the C.P.R. something in the order of \$70,000,000 a year. Now, our total freight revenues are \$306,000,000, so about one-fifth would come under that first category of international rates. Roughly, one-quarter of our total revenue comes from international rates that are in the first category. Now those rates are fixed in relation to the rates of the United States. They are, generally speaking, combinations either on the border or through rates between Canada and the United States, and must follow the scheme of things in the United States. When increases go into effect there, they go on to those rates. Those rates are not increased by our board acting independently.

Mr. BROWNE: These were not the point-to-points you were speaking of in answering Mr. Chevrier?

Hon. Mr. CHEVRIER: No. What I was trying to follow through was this: one hundred represents all the traffic which moves on the railways, does it not?

Mr. EVANS: Yes.

Hon. Mr. CHEVRIER: Then how much traffic is represented by section 5 of section 325, that is the Crowe's Nest, Maritime Freight Rates Act, International Joint Rates, Export and Import Traffic, Agreed Charges, and rates over the White Pass and Yukon? Would they constitute about 50 per cent?

Mr. EVANS: I would think so.

Hon. Mr. CHEVRIER: So, as to the remaining 50 per cent, that traffic is the only part which can be equalized if at all; and as to the point-to-point, that would be only a very small fraction of that 50 per cent?

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS, Room 277,

WEDNESDAY, November 7, 1951.

The Special Committee on Railway Legislation met at 3.30 o'clock p.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Argue, Ashbourne, Benidickson, Brooks, Browne (*St. John's West*), Cavers, Chevrier, Churchill, Cleaver, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), Macdonnell (*Greenwood*), MacNaught, Macnaughton, McCulloch, Mutch, Nowlan, Weaver.

In attendance: Mr. Hugh E. O'Donnell, K.C., Montreal, appearing on behalf for the Canadian National Railways with Mr. H. C. Friel, K.C., General Solicitor for the C.N.R.; Mr. F. C. S. Evans, K. C., Vice-president and General Counsel of the Canadian Pacific Railway Company with Mr. C. E. Jefferson, Vice-president of Traffic, and Mr. K. D. M. Spence, Commission Counsel, also of the Canadian Pacific Railway Company; Mr. J. J. Frawley, K.C., Edmonton, Counsel for the Government of Alberta; Mr. George A. Scott, Director, Bureau of Transportation Economics, Board of Transport Commissioners; Mr. Leonard T. Knowles, Special Adviser of Traffic to the Royal Commission, and Mr. W. J. Matthews, K.C., Department of Transport; Mr. J. A. Argo, Assistant Vice-president, Freight Traffic, Canadian National Railways.

The Chairman informed the committee that, in answer to his telegrams sent the previous day, he had received wire replies from the Premiers of Manitoba and British Columbia, also from Mr. W. P. Fillmore, representing the City of Winnipeg and Winnipeg Chamber of Commerce, all indicating a desire that their representations be heard before the Committee.

The Chairman then read a draft answer he had prepared which was agreed to. (*See today's verbatim report of evidence*).

Mr. K. D. M. Spence, Commission Counsel, the Canadian Pacific Railway Company, was then called. The witness submitted a set of proposed amendment to Bill No. 12, An Act to amend the Railway Act, each one of which he explained at length and he was questioned thereon. During the submission of Mr. Spence, the adjourned examination of Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company was resumed for brief periods.

And the examination of both Messrs. Evans and Spence having terminated, the witnesses were retired with the understanding that they would be available for recall at a later date.

On motion of Mr. Johnston, it was ordered that the set of proposed amendments of the officials of the Canadian Pacific Railway Company, on behalf of that company, be printed as Appendix "A" to this day's Minutes of Proceedings and Evidence.

The Chairman, thereafter, read to the Committee a reply he had just received from the Premier of Prince Edward Island. (*See today's verbatim report of Evidence*).

SPECIAL COMMITTEE

The Chairman also informed the Committee that he had received word from the acting leader of the Senate (Senator Hugessen), who is also the chairman of the Senate Committee on Transportation and Communications, to the effect that their Committee desire to thank the House of Commons Committee for the tentative invitation to take part in these deliberations but did not feel they should accept the invitation at this time.

At 5.45 o'clock p.m., the Committee adjourned to meet again at 3.30 o'clock p.m., Wednesday, November 14.

ANTOINE CHASSE,
Clerk of the Committee.

EVIDENCE

NOVEMBER 7, 1951

3:30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. In addition to the names which I put on our record yesterday we have an attendance available for questioning from the Canadian National Railways: Mr. J. A. Argo, Assistant Vice-President, Freight Traffic; Mr. W. J. Matthews, Director, Administrative and Legal Services, Department of Transport; Mr. Leonard J. Knowles, Traffic Adviser to the royal commission, and Mr. George A. Scott, Director, Bureau of Transportation Economics.

From the Canadian Pacific Railway: Mr. C. E. Jefferson, Vice-President of Traffic; Mr. K. D. M. Spence, commission counsel.

Since we adjourned last evening, I have received telegrams from Hon. Douglas L. Campbell, Premier of Manitoba, Hon. Byron I. Johnson, Premier of British Columbia, and W. P. Fillmore, of the firm of Fillmore, Riley & Watson, acting for the city of Winnipeg, and the Winnipeg Chamber of Commerce, all indicating they would like to be heard.

I have drafted a reply which I would like to read to the committee for your approval before it will be sent:

I acknowledge your wire received today. Our committee expects to complete today representations to be made to it by the Canadian National Railways and the Canadian Pacific Railway, and will then adjourn for one week to permit a full study of these representations. Witnesses of both railways are to return for cross-examination on request. I would expect that your delegation could be heard on the 15th or 16th or early the following week to suit your convenience so long as I am advised.

Is that reply satisfactory?

Agreed.

We will carry on now where we left off yesterday.

Mr. MUTCH: Mr. Chairman, before you go on with that. All of the provinces were notified: are those the only provinces that have communicated with us?

The CHAIRMAN: Up to date.

Mr. MUTCH: I understand if any of the other provinces signify an intention of coming they will be given the same attention.

The CHAIRMAN: A similar reply will be sent to them.

Mr. MUTCH: There has been one which communicated with us by telephone.

Mr. K. D. M. Spence (Commission Counsel, Canadian Pacific Railway):

Mr. Chairman, I propose to make some comment and suggestions by way of a section by section discussion of this bill No. 12, and I have had copies made of the various amendments that are suggested by the Canadian Pacific to certain sections of the bill, and those copies are in the hands of the committee. Now, as to the first three sections of the bill we have no comments.

I would like to start by referring to section 4 as to which we have no amendments to suggest; in fact, the Canadian Pacific Railway supports the proposed change in subsection 2 of section 52 of the Railway Act. This section relates to appeals to the Supreme Court of Canada. At present leave to appeal on a question of law must be obtained from the board, but leave to appeal on a question of jurisdiction can only be obtained from a judge of the Supreme Court. We feel that it is much fairer to allow the court to decide whether an appeal lies on a question of law just as it may already decide on a question of jurisdiction, and the proposed amendment will avoid much embarrassment to the board and to the parties and will simplify procedure without any change in the principle that an appeal lies only on questions of law or jurisdiction.

As to sections 5 and 6 of the bill, we have no comments.

Turning to section 7, which proposes an amendment to section 328 of the Act, it will be seen from the amendments that are in committee's hands that we have a proposal for amendment of subsection 2, subsection 3 and subsection 4 of the draft of section 328, and I should point out, Mr. Chairman, that the underlining indicates changes that we propose from the wording of the bill.

The CHAIRMAN: But it does not indicate the part you are striking out.

Mr. SPENCE: It does not indicate the part we are striking out, no, sir. Now, the committee will recall that yesterday Mr. Evans argued that sections 328 to 332 of the bill were unnecessary in so far as they abolished the standard mileage rates. Mr. Evans pointed out that the present Act can be left as it is and the new equalized rates can be made the ceiling or standard rates, which will of course avoid the disturbance of some very important sections of the Act upon which a large body of jurisprudence has been built up by the board and the Supreme Court. It will also retain, as Mr. Evans said, the requirement of prior approval of the ceiling rate before it can go into effect, which is a safeguard against the reparations practice. So that, so far as section 328 is concerned, we suggest that the Act is satisfactory as it is, and sections 328 and the following ones that propose to do away with the standard rates are not necessary. However, if that decision is not accepted by the committee, we would suggest that there are at any rate some desirable amendments to subsections 2, 3 and 4, and you will see that we suggest the following language. Perhaps I should read subsection 2 first so that we can make a comparison:

328 (2). A class rate is a rate applicable to a class rating to which articles are assigned in the freight classification.

Now, our only suggestion is that perhaps the following language more clearly defines a class rate. We suggest that subsection 2 read as follows:

A class rate is a rate applicable to commodities according to the class to which they are assigned in the freight classification.

Now, as to subsection 3, which defines the commodity rates, there are one or two difficulties that I would like to draw to the committee's attention. Commodity rates are of several kinds. All of them are applicable to particular commodities or to a particular group of commodities and they differ from the class rates which cover, usually, all commodities but do not name them in the tariff. In order to find a class rate applicable to a particular commodity, one must first look in the classification to find the class to which the commodity is assigned, and having found the class you find the rate applicable to that class in the class rate tariff. In the commodity tariff, on the other hand, the commodity or group of commodities is always found in the tariff. Now, in some cases commodity tariffs are of general application between all points in a given area and the rates are based on mileage and do not restrict the points to which they are applicable. These are the commodity mileage scales. Now, the first difficulty with the definition in the bill is that there are cases where the rate is

not named in the commodity tariff. For example, a commodity may be rated fifth class in the classification and under the class rate tariff it would be charged at the rate for the fifth class, but it has sometimes been found necessary to reduce the rate of that particular commodity, even though it is shown as fifth class in the classification. Now, this can be done either by specifying the reduced rate in the tariff or by merely assigning in that tariff a lower class rate. In other words, in the case of iron pipe, for instance, iron pipe is a fifth class commodity but under the commodity tariff it is shown as taking the rate applicable to the seventh class. It has been necessary, although it is shown in the classification as fifth class, to reduce that rate, and all that the tariff shows then is iron pipe, seventh class. It does not actually name the rate in the tariff, so that you have to go from the commodity tariff to the class rate tariff to find what the actual figures are in dollars and cents at that rate.

You will observe that this section as it is drafted says that a commodity rate is a rate applicable to an article described or named in the tariff containing the rate. Sometimes the tariff does not contain the rates and that is the only reason that we suggest that wording. At least, that is one reason that we suggest the change in that wording.

There is a second point in connection with this subsection 3. The present provisions of the Act, that is the Railway Act, specify that special tariffs and competitive tariffs relate to rates lower than the standard rates, which are the ceiling rates. You will see on the explanatory page opposite page three of the bill, subsection 3 of section 329, which says:

The special freight tariffs shall specify the toll or tolls, lower than in the standard freight tariff.—

The reason for this is obvious, because the right to charge lower rates in special circumstances is at all times necessary, and it was thought important in the old sections of the Act to make clear that the railways had the right to prescribe or to publish rates lower than the standard or ceiling rates.

The committee will remember that the amendments now proposed include a declaration of policy calling for equalization of rates in all cases whether unjust discrimination under Section 314 is involved or not. It is, therefore, more necessary than ever that the sections now proposed should make it clear that commodity rates and competitive rates are lower than the normal class rates. So we suggest that subsection 3 as proposed be amended to read:

A commodity rate is a rate lower than the normal class rate and is applicable only to the commodity or commodities named in the tariff.

For the same reason, subsection 4, which defines a competitive rate, should be amended to show that it is a rate lower than the normal class rate, and we propose to have that subsection read:

A competitive rate is a rate issued to meet competition and is lower than the normal class rate or commodity rate.

As to subsection 5 of section 328 we have no suggestions to make.

Mr. MACDONNELL: Might I ask a question as to the wording in the bill where it says—“(3) a commodity rate is a rate applicable to an article described or named in the tariff containing the rate”, I presume that relates to the commodity or commodities named in the tariff.

Mr. SPENCE: Yes sir.

Mr. MACDONNELL: The word “tariff” in that sense means—

Mr. SPENCE: The tariff in which the rates on these commodities are set out. There are, of course, class rates tariffs which do not name commodities; for instance, the present standard mileage rate tariff—I have one here—has no commodities shown in it at all; it only shows the classes and distances and

the rate charged upon each class for each distance. However, the commodity tariff names commodities and says the rates on those commodities shall be so much for so many miles.

Mr. BROOKS: Why would a commodity be named at a certain tariff rate and take another? Say it might be given class 5 and reduced to class 7?

Mr. SPENCE: Perhaps I did not make myself clear. A commodity will be named in the commodity tariff and the commodity tariff will show, instead of setting out all the rates for all the mileages on that commodity, will merely show that this commodity takes seventh class, although in the classification it is shown as fifth class. Well, the fifth class rate on that commodity would be a class rate, but when we want to give it special rates or when it becomes absolutely necessary to give it a lower rate than the class rate we might just say in the commodity tariff this article takes the seventh class; then you would go of course to the seventh class and look at the seventh class in your class rate tariff and find the rate on that commodity. Whether I make myself clearer on that, I do not know.

Mr. HELME: What would be the reason for transporting a commodity—

The CHAIRMAN: A little louder, please.

Mr. HELME: What would be the reason for transferring an article in the fifth class to a seventh class rate?

Mr. SPENCE: There may be a variety of reasons as to why we need to have a special commodity rate or a mileage commodity rate on certain commodities. The reason may be that we find that at the rate at which it is classified in the classification the traffic is not moving in proper volume. The rate may be a little heavy for that commodity, and it is necessary in order to move the greatest volume of traffic at the best return for the railway, to reduce the rate on that commodity.

Mr. MACNAUGHT: I think, Mr. Chairman, we should have a lecture on this point.

The CHAIRMAN: I think, perhaps, we should hear the representations for the record. Much of this is over my head and I feel that it may be over the heads of many other members of the committee and I think we should have it in the record.

Mr. SPENCE: Then perhaps, Mr. Chairman, I should go on to section 329. Now, section 329 states what the class rate tariffs generally specify, and the following points arise: "paragraph (a) of section 329" by its language, especially when read in conjunction with section 332A (2), suggests that only one class rate tariff on a mileage basis is permissible. You will see the wording of clause (a) of section 329 in the bill, "the class rate tariff (a) shall specify class rates on a mileage basis for all distances covered by the company's railways". The old section 329, subsection 1, which you will see on the opposite page, on the explanatory page opposite page 3, contemplated the possibility that there would be more than one standard freight tariff or tariffs. That reads: "the standard freight tariff or tariffs, where the company is allowed by the board more than one standard freight tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the company's railway."

Now it was probably contemplated by the royal commission that there should be only one class rate tariff on a mileage basis. On the other hand, it is clear to me that the effect of this on the basing arbitrary, that is the arbitrary east of Fort William that Mr. Evans explained yesterday, and the maritime arbitrary, will be so serious that the board may well conclude, if left with a discretion as we submit it should be, that more than one class rate scale will have to be allowed.

The clause (a) makes it compulsory that the distances in the class rate tariff shall be expressed in blocks or groups and that the block or group shall include relatively greater distances for a longer than for a shorter haul. In the present section this provision appears and it is permissive only, and we submit that it would be better that it should remain so.

Now, this is an important matter and it is a complex one. Blocks or groups mean that all points in the area, or groups of points, take the same rate. This practice is now in effect to a limited extent in the class rate and the commodity mileage rate. However, the unlimited application of the principle if made compulsory by this bill might be essentially in conflict with the principle of charging according to mileage; and, therefore, we submit that it should be a matter for the discretion of the board rather than a compulsion upon the board.

Referring again to this standard tariff which I have in my hand, the distances are expressed in blocks or groups.

Mr. BROWN: Mr. Chairman, I wonder if we could have copies of that?

Mr. SPENCE: I haven't them here but I will be glad to obtain them. I think perhaps it would be useful if you could see how this is set out because these distances are expressed to begin with in blocks of five miles—they start with five miles, ten miles, fifteen miles, twenty miles and so on until they get up to 100 miles; then they run in 10 mile blocks or groups from 100 miles—100 miles, 110 miles, 120 miles, 130 miles and so on up to 500 miles; and then from 500 miles they run in blocks of 25 miles until they get to 1,500 miles; and from 1,500 miles they go in blocks of 50 miles. And now that means for instance, that in the block of 1,500 to 1,550 miles the rates are the same; in other words, if you send a shipment from Ottawa here to a point 1,525 miles away the rate would be the same as if it was 1,501 or 1,549 miles, within that block or group the rate is the same. And that is a means of simplifying the tariff very greatly without doing anyone any harm so long as the blocks or groups are not made too big.

Mr. MACNAUGHT: But you start out with a block of 5 miles?

Mr. SPENCE: Yes.

Mr. ARGUE: If you make a practice to have a number of class rates it might complicate matters and it would seem to me that is a matter which should be left to the board. If these blocks or groups were made too large it would have the effect of making equalization too difficult. Then, for instance, we might have one rate for points in, let us say, Quebec and another class of rates for the prairies.

Mr. SPENCE: Well, our contention is that the class rate tariffs will be equal, and it is also our intention not to make groups too large in extent. What I mean is this; you see, in the 1500 block or group your block or group extends for 50 miles. I was not speaking of the kind of blocks or groups that you sometimes hear mentioned that encompass large industrial areas.

Mr. McCULLOCH: So that in the case of a shipment going 1510 miles the 1550 group or block charge would apply?

Mr. SPENCE: The rate would be on the 1550 basis. And now, the difficulty about this section that I see in this respect is this, that if you make it obligatory for these blocks or groups to be larger for every larger mileage you cannot have them run in the way they do in the tariff at the present time. For example, they run in blocks of 10 miles between 100 miles and 500 miles, each one of those blocks is 10 miles, so that a block of 100 to 110 is the same size as the block from 490 to 500. It is a 10 mile block. And now, if you say that every

increased distance must have a larger block or group the man in the 490 mile area might say, I must have a larger block than the man who is only 100 to 110 miles away.

The board at the present time is well aware of this block or group system and it allows a leeway which is a very practicable sort of leeway in the tariff; and we suggest that it should still be able to permit that leeway so the tariff will progress in a normal and reasonable sort of way without having the blocks or groups made almost unworkable by having nothing to come and go on.

There is another point in connection with that; if the committee should decide, or if parliament should decide that in adopting a plan of equalization, it should not do away with the principle of arbitraries. This section would cause difficulty in the way in which it is expressed, in the compulsory way in which it is expressed; because I point out that arbitraries are not expressed in blocks or groups according to mileage.

Now I answered a moment ago that a man who was 1530 miles from the point of shipment would take the 1550 mile rate. Actually, he would take the rate that comes into effect at 1501 and is applied to all points from 1501 to 1550 miles.

Now referring again for a moment to the section, I suggest the following in lieu of subsection (a) of section 329; I suggest that it should read:

329. Every railway company subject to this Act:

- (a) Shall file and publish one or more class rate tariffs as the board may determine, specifying the normal class rates on a mileage basis for all distances covered by the company's railway, and such distances may be expressed in blocks or groups and the blocks or groups may include relatively greater distances for the longer than the shorter hauls.

MR. EVANS: Mr. Chairman, I have had a question addressed to me in writing by a member of the committee and I do not want to get too far removed from the subject before I answer it. It is from Mr. Macdonnell. It reads as follows:

Is there a separate tariff issued for each commodity or group of commodities which are subject to a special rate?

The answer to that question is "yes", if I understand the question correctly.

THE CHAIRMAN: Thank you, Mr. Evans.

MR. SPENCE: As to section 329 (b) I have no suggestions, Mr. Chairman. And as to section 330, I have no change to propose as to subsection 1. But I do want to speak about subsection 2 of section 330.

Once rates are filed by the railway and not suspended or disallowed by the board they should be deemed to have been just and reasonable. The board, of course, should be free at all times to disallow them but until that is done they should be deemed just and reasonable, as Mr. Evans pointed out to us yesterday. It has to be remembered that no prior approval by the board of any freight rates is now to be provided for unless the sections that we suggest should be maintained in connection with standard rates are retained.

THE CHAIRMAN: And that would answer your question as to reparations?

MR. SPENCE: Yes, that would answer our question as to reparations; and of course Canadian Pacific would prefer that prior approval of the normal class rates should be provided for in order to protect it against claims for reparation. However, if that is not possible, the presumption of reasonableness is necessary, in our submission.

Now, in section 343 of the Railway Act, which is not shown in the bill, there is such a presumption, but it is referable expressly to any prosecution under this Act against the company or its employees. Perhaps I should read section 343 to make this clear.

Section 343 is under the heading of "Presumption as to Legal Tolls" and it reads:

343. If the company files with the board any tariff and such tariff comes into force and is not disallowed by the board under this Act, or if the company participates in any such tariff, the tolls under such tariff while so in force shall, in any prosecution under this Act, as against such company, its officers, agents or employees, be conclusively deemed to be the legal tolls chargeable by such company.

Now there are a number of penalty sections, 425 to 435 under which prosecution might be undertaken against the company or against its employees.

The CHAIRMAN: You say that is not wide enough to protect as against reparations?

Mr. SPENCE: No, it is not wide enough to protect us against reparations because it only relates to prosecution under the Act, not to cases before the board. Therefore we suggest that that might be enlarged, that section 343, by striking out the words "in any prosecution under this Act as against such company, its officers, agents or employees."

I have included in the suggested amendment a proposal as to section 343, just to show the section with those words struck out. Now, as an alternative, the proposed subsection (2) of section 330 might be amended.

Perhaps it could be more simply explained by just referring to the sheet that I have had headed "Proposal re section 330 (2)".

And that section would then read, with our amendment, as follows:

(2) Where a freight tariff is filed and notice of issue is given in accordance with this Act and regulations, orders and directions of the board, it shall, unless and until it is disallowed, suspended, or postponed by the board, be conclusively deemed to be just and reasonable and shall take effect on the date stated in the tariff on which it is intended to take effect, and shall supersede any preceding tariff, or any portion thereof, in so far as it reduces or advances the tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the board or is superseded by a new tariff, charge the tolls as specified therein.

Mr. GREEN: That amendment is an alternative to an amendment of section 343?

Mr. SPENCE: Yes sir.

Mr. GREEN: But you would prefer to have section 343 amended?

Mr. SPENCE: We would prefer to have the standard rates maintained. Secondly, I do not think as a second or a third alternative that we have very much preference between them; but our primary preference would be for the retaining of the standard rates as they are in the Act at present, because it would cause less disturbance, and would retain the things which we think are desirable to be retained.

Now, section 331. This section relates to the filing of competitive tariffs, and Mr. Evans spoke at some length on this subject yesterday. I have no suggestions for amendment of subsection (1); but yesterday we distributed—

The CHAIRMAN: Yes, we already have it.

Mr. SPENCE: A proposal for an amendment of subsection (2), and I have another copy included in the proposals which I have given you today.

Section 331

(2) The board may require a company issuing a competitive rate to furnish at the time of filing the rate, or at any time, any information which the board may deem necessary in order to enable it to determine whether such rate is reasonably necessary to meet competition and whether the establishment of such rate may reasonably be expected to enhance the net revenue of the company.

You will recall that Mr. Evans suggested, in dealing with the subject of competitive rates, that it was only necessary if the board's powers are not already deemed sufficient, to give it power to require the railways filing a competitive tariff to give such information as the board may deem necessary to enable it to determine whether the rate is justified. I think that that section as we proposed it is already in the record.

The CHAIRMAN: It is.

Mr. SPENCE: So I need not repeat it. Now, with respect to section 332, which is one that Mr. Evans did not mention yesterday, I have some comments to make. The wording is largely derived from subsection (3) of the present section 331 of the Railway Act and that is quoted at the top of the explanatory page which is opposite page 4 of the bill.

It will be observed, however, that whereas the present section 331 relates only to special freight tariffs, the proposed section 332 speaks of any freight tariff. The section reads as follows:

332. Where an objection is filed with the board to any freight tariff that advances a rate previously authorized to be charged under this Act, the burden of proof justifying the proposed advance shall be upon the company filing the tariff.

My only objection to the section is that in its present form it would apply to competitive rates. If the railways are to be obliged, merely upon the filing of objections with the board by some interested party, to justify advances in competitive rates, they will be very seriously hampered in carrying out the continuous process of adjustment that is necessary to meet changes in competition.

I might mention to the committee that I investigated the other day and I found that up to date this year we have made over 5,000 alterations in competitive rates.

The CHAIRMAN: All these alterations I take it were voluntary reductions on the part of the company, so you think that you should not be required to file the same material with regard to standard rates?

Mr. SPENCE: Yes sir; and some of them are increases that are made when the competition disappears; they work both ways. Competitive rates are changed as the competition changes, or at any rate they should change; and we try to change them as the competition changes. Sometimes they go up and sometimes they must be put down.

Hon. Mr. CHEVRIER: Are objections filed as a rule to competitive freight rates?

Mr. SPENCE: No sir, not as a rule.

Hon. Mr. CHEVRIER: Are you not covered by another section of the Act, so far as competitive rates are concerned?

Mr. SPENCE: When we have a section that says: where an objection is filed with the board as to any freight tariff that advances a rate, the burden of proof

justifying the proposed advance shall be upon the company filing the tariff, I take it that that would mean that even if we advanced a competitive rate, we would have to justify the advance of that competitive rate.

Hon. Mr. CHEVRIER: Do you know, off hand, the section which deals with competitive rates?

Mr. SPENCE: You mean in the present Act?

Mr. EVANS: Might I reply to the point, Mr. Chairman? The idea is really this: that the board has said that the railways are free to meet competition or free to cease meeting competition as they choose. Now then, if this gives the right, let us say, to a community or to an industry in a community to come to the board and say: "We have had the benefit of this competitive rate for some time. What justification has the railway for removing it?". It can force the railway to retain that rate until the board has had a hearing; and then perhaps infer that the board has the right to compel us to meet that competition if we do not choose to do so. It therefore becomes a revolutionary change in the making of competitive rates. The only protection we ask is that the section should not be open in respect of competitive rates—because the whole scheme of competitive rates is that you must not retain them in effect if the competition—

Hon. Mr. CHEVRIER: I do not think it was the intention to take that right away under this section. I say that, subject to correction.

Mr. EVANS: My respectful submission is that it does that.

Mr. SPENCE: Mr. Chairman, and members of the committee. I come to Section 332A, and you will find among the sheets distributed a proposal for amendment to subsections 1 and 2 of this section. As Mr. Evans pointed out yesterday in his submission, subsection 1, which is the declaration of a national freight rates policy is very sweeping in the language used and could be extended to the equalization of all class and commodity rates, and even to the equalization of competitive rates. In effect it could perhaps be construed as going far enough to require that all rates for similar commodities shall be equal and that, therefore, only one rate scale would be possible.

Now, obviously of course, this was not intended. It so happens that there is now in the Railway Act a pattern which might be used for the purpose of equalizing rates, and this is to be found in Section 322 which provides for uniform classification. You may be interested to know that it is under that section, 322, that we have in Canada a uniform classification throughout the country today. It is also interesting to note that as yet in the United States they have not achieved the degree of uniformity of classification that we have here in Canada.

Now, the language of Section 322 could be very well adapted to the proposed new section 332A (1). Therefore, I propose the subsection could be rewritten as follows:

(1) It is hereby declared to be the national freight rates policy that differences in rates as between various parts of Canada, although not amounting to unjust discrimination within the meaning of Section 314, shall be eliminated as far as may reasonably be practicable, having due regard to all proper interests, and the Board is hereby empowered and directed from time to time, to review the freight rate structure within Canada, with a view to carrying out such policy and to make such orders by way of revision of rates and tariffs or otherwise as it may deem proper.

Mr. McCULLOCH: That is under 332A?

Mr. SPENCE: That is under 332A.

Mr. McCULLOCH: You mentioned 322A.

Mr. SPENCE: I mentioned 322 as the section of the present Railway Act that provides for equalization or provides for the uniform classification.

You will see the words in 322, subsection (1):

The tariffs of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification uniform throughout Canada, as far as may be, having due regard to all proper interests.

Now, as to subsection (2) of the proposed Section 332A: this subsection would in my view, and as Mr. Evans pointed out yesterday, whether in one or the other alternative forms now proposed, be unnecessary. However, if it is required I propose that it might read:

(2) Without restricting the generality of subsection (1) the board may require any railway company:

- (a) to establish a uniform scale or scales of class rates applicable on its system in Canada;
- (b) to equalize as between different parts of Canada, any scale or scales of mileage commodity rates applicable to the same commodity or commodities;
- (c) to revise any other tariffs or rates which, in the opinion of the board may reasonably be equalized as between different parts of Canada.

Hon. Mr. CHEVRIER: Mr. Spence, may I ask this question? If (2) were to pass then you would not have a change, a substantial change, in the freight rate structure of the country, because 322A (1) and (2) are the sections which establish the new freight rate structure?

Mr. SPENCE: Yes, sir.

Hon. Mr. CHEVRIER: And if (2) were to pass then you would not have a new freight rate structure?

Mr. SPENCE: We would hope to be able to accomplish equalization of the freight rate structure.

Hon. Mr. CHEVRIER: I know, but that was not my question. My question was that the freight rate structure with certain amendments would remain the same as it is now.

Mr. ARGUE: There would certainly be a lot less change in it. This throws equalization right out of the window in my opinion.

Mr. EVANS: May I humbly differ with you, sir?

The CHAIRMAN: If I may interrupt, the division bells are ringing so we will adjourn for twenty minutes.

The committee adjourned for a division in the House.

—[Upon resuming.]

The CHAIRMAN: Gentlemen, we have a quorum. We will carry on.

Mr. EVANS: At the adjournment I was about to answer a question of Mr. Argue and I think the purport of his question was whether the proposal we now make for the amendment to the equalization section would not destroy equalization; and my answer to you sir, is we say no. As a matter of fact in our respectful submission we think it will facilitate equalization because you can have equalization in theory so drastic in character that it will upset all of the industries in this country. You can also have a character of equalization

that will preserve those things which are good in the present structure and the things which we say are now valuable and should be retained are those arbitraries.

We think it is just as possible to equalize two scales as it is to have one scale, equalized with nothing, if you like. I think equalization, essentially, is to equalize between regions and if you have two scales or three you can equalize those scales between regions. But there is this third group of rates governing traffic that moves from one region to another—from west to east—and if you have a single scale applicable to those, and in the process destroy those arbitraries, then you defeat your purpose. What we are trying to do is to preserve them and to equalize those things which are now unequal. Do I make that clear?

Hon. Mr. CHEVRIER: According to the argument that you are making now, under Section 314 you say you can equalize the rates now?

Mr. EVANS: No, sir.

Hon. Mr. CHEVRIER: Do you not?

Mr. EVANS: No, sir.

Our amendment says: it is hereby declared to be the national freight rates policy of Canada to equalize differences in rates, although not amounting to unjust discrimination under 314, you see. That specifically says that this section would operate where 314 would not operate. That is in the very language of our section. It reads this way:

It is hereby declared to be the national freight rates policy that differences in rates as between various parts of Canada, although not amounting to unjust discrimination within the meaning of Section 314, shall be eliminated as far as may reasonably be practicable, having due regard to all proper interests . . .

That we say goes far beyond 314.

Hon. Mr. CHEVRIER: With all respect to you I do not know what that section means. I do not understand it.

Mr. JOHNSTON: Hear, hear.

Mr. ARGUE: There are too many qualifications.

Mr. EVANS: Well, sir, if you say "qualifications"—we have achieved a uniform classification under 322 and if you look at that you will find many qualifications in that, in principle. We have achieved it under that section.

Mr. ARGUE: It still is not equalization of freight rates?

Mr. EVANS: I beg your pardon?

Mr. ARGUE: It still is not equalization of freight rates if you leave it in here. There will be discrimination—"as far as may reasonably be practical, having due regard to all proper interests . . ." and so forth. I am afraid there will be precious little change in the present situation.

Mr. EVANS: May I answer you this way? Is it the desire of the committee to have equalization regardless of how it affects anybody in this country?

Mr. ARGUE: There are exceptions in the bill, plenty of exceptions.

Hon. Mr. CHEVRIER: Well, Mr. Evans, it is not the desire of the committee that the language of the bill intends to carry out.

Mr. ARGUE: That is the point.

Hon. Mr. CHEVRIER: It is the recommendations of the royal commission and that is what we are dealing with. I do not think it should be put in the language of whether it is the desire of this committee. It is the desire of this committee to carry out the wishes of the royal commission.

Mr. EVANS: It is our desire too, and I think with all sincerity I can say we are not attempting in any way to defeat that equalization which we say is possible.

Hon. Mr. CHEVRIER: I do not want to take up undue time but as I understand the report of the royal commission it stated this: that the freight rate structure of Canada was obsolete; that the time had come to change it; to make it more modern and to streamline it. Everybody, even those representing the provinces, decided that was the thing to do and that is what this bill seeks to do—and your amendment would defeat that.

Mr. EVANS: I am so sorry, sir, I cannot agree with that. I think this amendment makes that very thing possible and I am going to suggest to you that it makes it a little more possible, with respect.

Hon. Mr. CHEVRIER: I will not argue with you because perhaps after all you are more conversant with this matter than I am and so who am I to argue with you, an expert?

Mr. EVANS: I do not ask you to accept me, only my sincerity, that is all.

Mr. JOHNSTON: May I ask Mr. Evans a question? In this proposal you say:

It is hereby declared to be the national freight rates policy that differences in rates as between various parts of Canada, although not amounting to unjust discrimination . . .

Would it be fair to say you assume the present rate structure does not amount to unjust discrimination?

Mr. EVANS: What has been complained of is under Section 314, which is the only equalization section in the Act. The complainants say the board has consistently held differences in rates between different regions have not amounted to unjust discrimination. When I use the words "unjust discrimination" I mean as they are found to be under the Railway Act as it now stands. In other words, if you have a rate between "A" and "B" in western Canada, and a rate between "C" and "D" in eastern Canada, and there is a difference between those rates, there is no remedy under section 314 unless some common market can be found and unless it can be shown that the complainant has been damaged by a difference in rates in the other regions.

Mr. JOHNSTON: But up to the moment you would contend these rates which now exist are not unjust?

Mr. EVANS: Not unjustly discriminatory—and that is a term of art—a legal term under the Act.

Some Hon. MEMBERS: Oh, oh.

Mr. JOHNSTON: A very elastic term?

Mr. EVANS: Yes, it is a nasty term.

Mr. JOHNSTON: I said "elastic".

Mr. EVANS: It is also nasty. It is a nasty term because unjust discrimination should not exist in this country, and the board has not permitted it to exist.

Mr. JOHNSTON: Therefore you would be of the opinion that since there has under the present structure been no unjust discrimination there is not very much sense in changing the law as it stands.

Mr. EVANS: No, sir, I say the very reverse in that section; I say, where the parties would have failed before on the ground that no unjust discrimination existed under the Railway Act they will now become entitled under this policy to have those differences equalized.

Mr. JOHNSTON: Then you do contend that the way the Act stood before did not permit you to level off the rates in such a manner that there would be more equality than there is now and, therefore, the Act should be changed in some respects.

Mr. EVANS: If you put it that way you force me to say no. Let me make it clear, as I do not want to evade. As it stood before, no one could succeed in establishing that a rate in western Canada higher than a rate in eastern Canada was unjustly discriminatory unless they could show damage to the shippers who used the higher rate. Now, then, one of the complaints was just that. It is not easy to show that damage. The board would not give us relief, they said, because we could not show that damage. Now this section comes along and says differences in rates as between regions not amounting to unjust discrimination, as we have heretofore had it, will no longer be permitted.

Mr. GREEN: You mean as you have heretofore found it.

Mr. EVANS: Yes.

Mr. Low: Has your company ever admitted that unjust discrimination exists in the present rates?

Mr. EVANS: If you mean generally between east and west—

Mr. Low: I mean anywhere; I will give you lots of latitude.

Mr. EVANS: It would be a miracle if we could not find cases of unjust discrimination in our rates.

Mr. Low: Have you admitted that in your evidence before the royal commission?

Mr. EVANS: I think so. When we have had complaints made have said that we agree that a rate was unjustly discriminatory and the discrimination ought to be removed, but if by your question you mean have we admitted that the differences in rates between regions amount to unjust discrimination, I would say no. This amendment which is now under criticism takes away from us any basis on which we can hide behind section 314 and claim that a complainant has no case because he cannot make out this technical legal basis of unjust discrimination, and I say that section goes far further than any we have ever had before and it goes to the point of equalizing.

Mr. Low: But not as far as the bill?

Mr. EVANS: I think it goes as far as the bill goes in principle, but I am suggesting to this committee with respect, and to the minister with respect, that what has been done in the bill may produce equalization in some respects but at a very heavy cost to some parts of this country by the removal of these arbitraries.

Mr. ARGUE: To the railways, perhaps?

Mr. EVANS: No, sir, the railways do not profit by discrimination, they do not profit by regional differences, and we are saying here we will remove these, but I do not know whether it is in the interest of the western farmers any more than in the interest of the eastern industrialist to have this basing arbitrary removed. I do not think it is good that this long standing basing arbitrary should be removed because if the western farmer pays for the freight he gets from eastern Canada he is going to be affected by it, he is going to have his disturbance, too, and the maritimes their disturbance, too. You can have thoroughly drastic equalization, and by that I mean you can have equalization and have only one scale of rates in this country. It will be equalization. Everybody pays the same, but I venture to say the traffic in this country would dry up and you would have economic chaos.

Mr. ARGUE: Do you think that is what is going to happen from the bill?

Mr. EVANS: No, I do not. I think you will have more chaos, more dislocation, if you have a single scale and remove these arbitraries than you will have if you leave to the board—I do not say decide now—the possibility of having more than one scale.

Mr. GILLIS: Could you give us an example of how these arbitraries are protecting now the maritimers and the western farmer?

Mr. EVANS: Well, sir, the scheme of arbitraries is indicated by the use of the word arbitrary. In other words, it is a flat amount on each different class of each different commodity. That is fixed without regard to distance. The maritime arbitrary is a very low arbitrary. The maritimes think so highly of it that when they came to the royal commission they thought the royal commission should recommend legislation that would prevent it being increased. The royal commission held no, these arbitraries are an integral part of the structure, and they should go along with other rates. Now I say to you, if you have a single scale going from coast to coast you will have everyone paying the same rate, but I suggest that the people of the extremities will be found to be paying higher rates. That is only a suggestion. Nobody has settled on a scale, but we are afraid that may be the result and we are saying, do not tie the hands of the board, that is all. Let the parties come in and be heard. If the parties can make a case for the arbitraries, let them do it. I am not making a case for them, I am only saying that it is better not to pre-judge but to let the board decide after hearing the parties whether there should be one or more.

Hon. Mr. CHEVRIER: There is nothing mandatory about 332A, and there is nothing mandatory about 332A (2), which reads:

The Board may, with a view to implementing the national freight rates policy, . . .

and on that question you have been making some rather sweeping statements here, Mr. Evans, that go right in the teeth of the royal commission report. One statement which you made was that equalization may affect certain parts of Canada very adversely and we had better be careful.

Mr. EVANS: No, sir.

Hon. Mr. CHEVRIER: That is a note I took down.

Mr. EVANS: May I correct it, then? If I gave you that impression, I want to correct what I said. I said it may do.

Hon. Mr. CHEVRIER: But the board is still there. After all, parliament has constituted the Board of Transport Commissioners as a rate making body in this country.

Mr. EVANS: Yes, sir.

Hon. Mr. CHEVRIER: And parliament does not, I am sure, want to take that authority away from the board. It is still the rate making body in Canada, and the royal commission recommended against any change in so far as that is concerned. Now, will not the board by virtue of this legislation and by virtue of the investigation of a freight rates equalization plan under P.C. 1487, still remain the body which will meet the objections that you have been raising here from time to time.

Mr. EVANS: Well, sir, if I thought the board's hands were not tied by this legislation I would agree with you. I want them to be untied, but this section—

Hon. Mr. CHEVRIER: The board's hands are not tied in so far as the equalization sections are concerned, but the board is asked to require the railways to have a uniform freight rate structure. In that sense the railways are tied, but that is an entirely different thing, I think, from what you have been arguing.

Mr. EVANS: May I respectfully point out to you that if subsection 2 does not mean that we are to have a uniform scale—

Hon. Mr. CHEVRIER: It does, I think.

Mr. EVANS: Well, it says, sir (2), "the board may, with a view to implementing the national freight rate policy, require any railway company to establish a uniform scale of mileage class rates . . ."

Now, if you said 'uniform scale or scales', that would be my point. You see, what you have done, sir, is that in the old Act it was specifically provided that there might be more than one if the board allowed it, and you have taken that section out and by taking out the words that give the board power to have more than one, and by using the words "a uniform scale", I am suggesting that you have tied the hands of the board. That is all my point.

Hon. Mr. CHEVRIER: But the section reads:

(2) The board may, with a view to implementing the national freight rates policy, require any railway company to establish a uniform scale of mileage rates applicable on its system in Canada . . .

It does not say that it shall.

Mr. EVANS: No, sir.

Hon. Mr. CHEVRIER: It need not.

Mr. EVANS: Well, sir—

Hon. Mr. CHEVRIER: I do not want to enter into a legal argument with you on the definition of this because I do not think we will get any place. All I am trying to say is that this is the method by which a group of legal officers of the Department of Transport thought the recommendations of the royal commission could be carried out, and if your subsection 2 of section 332A is passed, it will just knock that higher than a kite.

Mr. EVANS: With respect, I do not believe it will.

Hon. Mr. CHEVRIER: That is why I say we cannot get any place in arguing that. You say it won't, and I contend that it will.

Mr. Low: Mr. Chairman, was not this very thing argued ad infinitum before the commission?

The CHAIRMAN: I think, Mr. Low, subject to the wishes of the committee of course, our best plan is to fairly hear all of the representations Mr. Evans and his associates wish to make, have them in writing where they can be studied by the interested parties, take an adjournment for a week, giving plenty of time to study them, and then, Mr. Evans, we are going to ask you and Mr. Spence to return later and be subject to the questions any member of the committee wants to ask.

Mr. BROOKS: There is one point there. Mr. Evans has created in my mind a certain doubt relating to the situation in the maritimes, and if there is any evidence to come before this committee I think we should have it now, because our people are very much interested in just how this will affect our particular part of the country. There is another point. The minister and others say Mr. Evans is not agreeing with the royal commission's report. Are we supposed to take that report holus-bolus and not change our ideas in any way because it says such a thing in the report?

The CHAIRMAN: I repeat again, I think it will make for a more orderly study of the subject if we receive every submission that either the Canadian National Railways or the Canadian Pacific Railway wish to make and then have time to study them.

Mr. MUTCH: On the bill.

The CHAIRMAN: On the bill.

Mr. MUTCH: It might not be out of order to say it sounds like being offered a big piece of black money for two shiny dimes!

The CHAIRMAN: No comment!

Mr. SPENCE: Mr. Chairman and members of the committee, I come now to section 332B, which deals with transcontinental rates and, as Mr. Evans emphasized yesterday, we are opposed to the principle of this section and feel that if it were passed it could not help but have undesirable results. We have no suggestions for amendment. We hope that the section as a whole will be rejected.

The CHAIRMAN: Which section?

Mr. SPENCE: Section 332B.

The CHAIRMAN: Under that section, have you the material ready for tabling that I asked for yesterday?

Mr. SPENCE: We are working on it, sir, but I am afraid we have not had an opportunity yet to get it all completed.

Mr. EVANS: I can tell you, Mr. Chairman it is going to be practically impossible, as I thought it would be, to get the traffic destined for the intermediate territories that would be affected. I do not see that we can do that. I have consulted with our traffic people but they tell me that it can be done over a long period but could not be ready before the committee would make its report.

The CHAIRMAN: Then would it be possible to give the committee the three way breakdown of costs: 1, your general overhead; 2, your cost of maintaining your right of way, your trackage; and, 3, your actual running costs.

Mr. EVANS: Yes, we can get that.

The CHAIRMAN: How soon could we have that?

Mr. EVANS: I could get that for you by the next time we appear here.

The CHAIRMAN: Right.

Mr. SPENCE: As to sections 8 and 9 of the bill I have no comment.

Section 10 of the bill deals with section 336 of the Railway Act and adds a subsection to section 336 relating to what are called interline rates. We have no real objection to this section except that we submit that perhaps it is unnecessary. All that that section means is that when a shipment must move over two railways instead of one to reach its destination and there is a complaint that the rate is higher than it should be, or than it would be if shipment could move over one line all the way, then the railway must prove that the costs of handling it by two lines are greater. Now, I just want to point out that an enactment of that kind might be valueless or it might be unnecessary because it is obvious the railways would be able to discharge the burden of proof in every case; clearly, it costs more for two companies to handle a shipment over a given distance than for one company to carry the freight to its destination. And the board has so found in cases. I mention an order of the board, number 28618, of August 1, 1919, which held that to be so. In addition, of course, to switching costs at the point of interchange in the case of carload traffic, and the shed handling costs in the case of l.c.l. traffic, there are also two sets of employees and officers involved, two sets of accounting entries that must be made; and, in fact, two complete organizations instead of one that must function for the purpose of handling the shipment; and so I say that the burden of proof could obviously be discharged by the railways in every case, and perhaps the section is not really necessary.

The CHAIRMAN: Well, is it doing any harm?

Mr. SPENCE: I do not think it is doing any harm, no. It just means that you have hearings before the board in which we have the burden of proof of bringing out these facts.

Hon. Mr. CHEVRIER: You have no serious objection to it?

Mr. SPENCE: No. We just draw attention to the fact that there should be no need of it. Now, section 12. I have no comment on that.

Section 13—well, sections 13 and 14 relate to returns to be made to the board on accounting matters, statistical matters that are to be furnished to the board by the railways and other companies subject to the Act. When we come to look at section 380B, which is at the bottom of page 8, we find the Board directed to prescribe a uniform set of accounting for railways in respect of their railway operations. It is only in railway operations that there is any call for uniformity of accounting, nor would the board have any concern with or powers over other activities of a company, a railway company, which were not included in its railway enterprise. A railway has a number of activities that are not related, are not included in its railway enterprise. And section 380B (1) contains in the last line of subsection 1 the words, "that relate to railway operations."

Now, it would appear therefore that it is rail statistics only that the railway companies should be required to report under sections 379 and 380. However, as the section now stands they would seem to require the railway companies to report their entire corporate assets, liabilities, capitalization, working expenses and traffic. Our proposal in connection with these sections is as follows:

379. (1) Every railway company in respect of its railway operations, and every telegraph, telephone and express company and every carrier by water shall annually prepare returns, in accordance with the forms and classifications for the time being required by the board, of its assets, liabilities, capitalization, revenues, working expenditures and traffic.

380. (1) Every railway company in respect of its railway operations, and every telegraph, telephone and express company and every carrier by water, if required by the board so to do, shall prepare monthly returns of its revenues, working expenditure and traffic and all other information that may be required.

With respect to sections 15, 16 and 17 I have no suggestions to offer.

That brings me to the last section, section 18, which relates to payments to railway companies for the cost of the maintenance. Now, at the outset I would like to make it clear for the record that the Canadian Pacific is not in favour of subsidies and has not asked for or even suggested the subsidy recommended by the royal commission and provided for in this section. In our view subsidies if granted should not be considered as subsidies to the railways and should rather be dealt with as subsidies which are intended to benefit the users of the railway service. We would have preferred, had parliament desired to establish the principle of subsidising the freight shippers, that the subsidy be paid directly to the shippers whom it was intended to benefit, and not that it be payable to the railways themselves; since the tendency is, of course, to forget that the true destination of the subsidy is not the railway but the freight shippers.

Now, there are several matters which in our submission might be considered in connection with the drafting of this section. I put them to the committee solely with a view to clarifying the language used so that difficulties may not develop before the board when the board is carrying out its function of establishing the cost of maintenance and its division between the railway systems. For example, the section uses the word *trackage* without defining what is meant by that term, and there is no definition in the Railway Act of the term "*trackage*". The board would accordingly be faced with the question as to whether the maintenance of *trackage* included the maintenance of bridges and tunnels and rock cuts, passing tracks, sidings and yard tracks, and signal installations and other structures of that kind. It would seem unlikely that

the royal commission's recommendation was intended to provide that only the maintenance of the rails, or perhaps the rails, ties and ballast, should be taken into account, and not the maintenance of structures which carry them or which are directly involved in and make possible the use of the trackage. It seems to me that the matter would be greatly simplified or clarified by adding a subsection defining the word "trackage" as meaning the railway. "Railway" is defined in one of the definitions sections in the Act, although perhaps it goes a little too far for this purpose because it includes rolling stock, equipment, stores and personal property, which I do not think the royal commission intended should be included. But we perhaps might take advantage of the word "railway", the definition of the word "railway" which appears in the Act and exclude from it the items which I have mentioned—rolling stock, equipment and personal property; and that is the object of the subsection which I have submitted to the committee.

Mr. Low: Mr. Chairman, would it not be a good thing to have the clause of the Railway Act to which Mr. Spence has just referred included in our evidence at this point?

The CHAIRMAN: It is very short.

Mr. SPENCE: It is in subsection 21 of section 2 of the Act, and it reads as follows:

(21) "railway" means any railway which the company has authority to construct or operate, and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property real or personal and works connected therewith, and also any railway bridge, tunnel or other structure which the company is authorized to construct; and, except where the context is inapplicable, includes street railway and tramway;—

Of course that obviously would be inapplicable here—a street railway or tramway.

Our proposed amendment is as follows:

Proposal re Section 18.

Add as subsection (5)—

(5) For the purposes of this section "trackage" shall mean railway as defined in this Act but excluding rolling stock, equipment, stores and personal property.

The CHAIRMAN: Your suggestion is that either the proposed section should be amended or that a definition of the word "trackage" should be included in the Act?

Mr. SPENCE: Yes, sir, just for the purposes of clarification so that we will not have any trouble knowing what trackage means when we come to deal with the section.

A further matter arises in interpreting this section and it is as to the meaning of the words in paragraph (b) of subsection 1 which are—"corresponding in extent of the trackage mentioned in paragraph (a). You will see that the section says this; there shall be paid to the Canadian National Railways an amount equal to the annual cost of maintaining trackage of corresponding extent to the trackage mentioned in paragraph (a); and the trackage mentioned in paragraph (a) is the Canadian Pacific trackage.

The honourable the minister (Mr. Chevrier) is reported at page 527 of *Hansard*, for Tuesday, October 30, as having indicated his intention to interpret these words as meaning equivalent in terms of mileage. He indicated, however, that the total mileage of the Canadian National involved in the area was not very far short of double the main line mileage of the Canadian Pacific between

Sudbury and Fort William. Now, the board is left under this section with no way of determining what section of line is to be included by the Canadian National in arriving at the equivalent mileage. It would undoubtedly be quite difficult to make the meaning exactly clear in the statute but it does seem to us that we may have some difficulty in determining what is meant when it comes before the board unless an attempt is made to clear it up. One method which strikes me, and I only offer this as a suggestion to the committee, is that the full maintenance cost as determined by the board for the entire mileage might be taken for the Canadian National mileage equivalent to that of the Canadian Pacific; that is to say that total maintenance cost of the 952 miles of Canadian National main line could be averaged at a cost per mile and then the per mile average might be multiplied by 552, or whatever the board finds the mileage of the railway of the Canadian Pacific to be between Sudbury and Fort William.

There is a somewhat more difficult question which may arise under this section. I do not want the committee to feel that there will be any contest between Canadian Pacific and the Canadian National about the relative amounts spent on maintenance. It is a fact, however, that maintenance programs throughout a system as great as that of the Canadian Pacific or the Canadian National vary greatly from year to year in respect to particular portions of the line. That is to say, the minimum amount of maintenance may be done by one line in one year and when it becomes necessary, for example, to renew a large number of ties or rails, a substantial proportion of that line may have this kind of maintenance done in one year, and may not again require it, at least so substantially, for several years.

In these circumstances we will find that in the way this section is drafted, the railways will draw differing proportions of the total subsidy each year. This will not be because either is trying to qualify for more of the subsidy or necessarily that one railway is more efficient than the other. It is simply the fact that maintenance is not uniform on each section of the line each year.

If the benefit is to be given to the freight shipper as the royal commission intended, some allowance, arbitrary in amount, has to be taken off the rates on the traffic which is to receive the benefit of the subsidy.

Canadian Pacific is the yardstick line, so-called, because it is on Canadian Pacific results that rates have heretofore been fixed in Canada. It will be practically impossible to measure from year to year by means of adjustments in the tariffs, fluctuating amounts of the subsidy which may be payable year by year. It follows, therefore, that with fluctuating annual amounts of subsidy received by Canadian Pacific, the direct effect of the subsidy cannot be translated into reductions in rates, except over a long term.

The CHAIRMAN: Would you venture to suggest an average cost over a number of years, and if so, over how many years?

Mr. SPENCE: Well, that would be one way to approach it, certainly; but we have no definite idea as to how it should be done. Of course, it is a matter for the board to determine, but there is a great difficulty that we may find facing us.

Mr. ARGUE: What is the cost of maintenance of that trackage now? Have you any idea of the cost, just approximately?

Mr. EVANS: I got the figure before I came without any knowledge as to what might be involved. It ran something over \$3½ million. There were some figures in it which might perhaps not be qualified and I cannot take the responsibility for it. But the figure I had was about \$3·8 million for our section. However, I do not want the committee to accept that figure as my figure, or as a proper figure. That may be very different next year, very much more or very much less. I cannot tell you if that \$3·8 million figure is the one which the board intended to be covered by that section.

Hon. Mr. CHEVRIER: It is the intention of the department to amend this section, first in order to clarify what is meant by "traffic", and also to amend it in such a way that this subsidy will be reflected in the freight rates, that is east and west.

Mr. Low: That is the important thing!

Hon. Mr. CHEVRIER: There is an amendment which is ready now, I believe. I think that when our people are called they will produce it. And I am sure they will take cognizance of the evidence you have given as to the difficulty which might arise concerning the definition of "trackage", and on other points which might arise.

Mr. EVANS: May I speak to that matter? That has caused us some little difficulty and I am going to suggest to you, without having seen your amendment, that you do not try to define too clearly the traffic that will be affected by it. I have not got anything beneath the cuff at all. What I am saying to you is that probably transcontinental competitive rates should not qualify for it because they are on a competitive level, and those rates are also at a level which we think it necessary to meet competition. So, if you put it on competitive rates, you will quite likely have a reduction in those rates which is not necessary or justified.

Hon. Mr. CHEVRIER: I think the matter should be left pretty much to the board.

Mr. EVANS: And I agree.

Hon. Mr. CHEVRIER: The board is the rate fixing body and it decides in accordance with the Maritime Freight Rates Act how the preferment or reduction is to be borne between the various railways, and I think the board should do the same in this case.

Mr. EVANS: I agree.

Mr. ARGUE: It is not your intention, Mr. Chevrier, to bring in that amendment until after all the discussions have taken place?

Hon. Mr. CHEVRIER: That is quite right. But I think the committee might want to know at this stage what is in our minds.

Mr. SPENCE: I have only one more comment to make to this. I was speaking of the difficulty in determining how fluctuating amounts of subsidy might be reflected in the freight rates, and I just want to say, but without pressing the matter, that I suggest that this committee might consider whether an equal division of the total subsidy should not be made between the two railway systems. It would certainly save a great deal of difficulty and discussion each year. And it seems quite likely that the total cost of maintenance involved will usually exceed the sum total of the subsidy and that, therefore, an equal division of \$7 million or \$3,500,000 to each of the two systems, would be proper.

If, however, it is still desired that the board should inquire into the maintenance costs—and I have no objection to this—I would suggest that the section be amended so that when the board has determined the cost of maintenance, the total amount of the subsidy thereby becoming payable will be divided equally between the two railway systems. That is all I have to say about these matters, Mr. Chairman.

The CHAIRMAN: Thank you very much, Mr. Spence.

Is it the wish of the committee that we should add to our Minutes of Proceedings of these hearings, as an appendix, the actual proposed amendments as suggested by the witnesses, Mr. Evans and Mr. Spence?

Mr. JOHNSTON: Yes, because there are some of us who have not got a copy of them at all.

The CHAIRMAN: Since the committee started this meeting this afternoon I received a wire from the premier of Prince Edward Island which will be answered; and I was also instructed by the committee to have an informal discussion with the leader of the Senate and the chairman of their transportation committee to learn their views as to whether they would like an invitation to sit in with this committee in connection with our inquiry.

I have now received word from the acting leader of the Senate who is also the chairman of the Senate Railway Committee or Senate Transportation Committee thanking this committee for the tentative invitation but stating that they did not feel they should accept our invitation at this time.

Mr. BROWNE: Would you mind telling us what the premier of Prince Edward Island had to say?

The CHAIRMAN: Shall I read the wire?

Mr. BROWNE: Yes.

The CHAIRMAN: "Hughes Cleaver, Chairman, House of Commons Special Committee on Railway Legislation, Ottawa. Retel November 5. My government does not desire to make representation further to that already presented to the royal commission and more recently by Rand Matheson of the Maritime Transportation Commission.

J. Walter Jones, Premier".

Then, is it satisfactory if we adjourn? I might say that I have been in personal contact with the King's Printer and I hope to have printed copies available for members of the committee and the public by Thursday of this week—copies of all the evidence taken up to date.

Some hon. MEMBERS: Tomorrow?

The CHAIRMAN: Yes, tomorrow night.

Shall we adjourn then until Wednesday, and Wednesday being caucus day I suggest Wednesday afternoon at 3.30?

Agreed.

The meeting adjourned.

Appendix "A"

SUBMISSION BY
CANADIAN PACIFIC RAILWAY COMPANY

relating to

BILL NO. 12,

"AN ACT TO AMEND THE RAILWAY ACT."

PROPOSAL RE SECTION 328 (2), (3), & (4)

Section 328

(2) A class rate is a rate applicable to commodities according to the class to which they are assigned in the freight classification.

(3) A commodity rate is a rate lower than the normal class rate and is applicable only to the commodity or commodities named in the tariff.

(4) A competitive rate is a rate issued to meet competition and is lower than the normal class rate or commodity rate.

PROPOSAL RE SECTION 329 (a)

329. Every railway company subject to this Act:

- (a) Shall file and publish one or more class rate tariffs as the Board may determine, specifying the normal class rates on a mileage basis for all distances covered by the company's railway, and such distances may be expressed in blocks or groups and the blocks or groups may include relatively greater distances for the longer than the shorter hauls.

PROPOSAL RE SECTION 343

343. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, the tolls under such tariff while so in force shall be conclusively deemed to be the legal tolls chargeable by such company.

PROPOSAL RE SECTION 330(2)

Section 330

(2) Where a freight tariff is filed and notice of issue is given in accordance with this Act and Regulations, Orders and Directions of the Board, it shall, unless and until it is disallowed, suspended, or postponed by the Board be conclusively deemed to be just and reasonable and shall take effect on the date stated

in the tariff on which it is intended to take effect, and shall supersede any preceding tariff, or any portion thereof, in so far as it reduces or advances the tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the Board or is superseded by a new tariff, charge the tolls as specified therein.

PROPOSAL RE SECTION 331 (2)

Section 331

(2) The Board may require a company issuing a competitive rate to furnish at the time of filing the rate, or at any time, any information which the Board may deem necessary in order to enable it to determine whether such rate is reasonably necessary to meet competition and whether the establishment of such rate may reasonably be expected to enhance the net revenue of the company.

PROPOSAL RE SECTION 332

332.

Where an objection is filed with the Board to any freight tariff that advances a rate previously authorized to be charged under this Act, other than a competitive rate, the burden of proof justifying the proposed advance shall be upon the company filing the tariff.

PROPOSAL RE SECTION 332A (1) AND (2)

Section 332A

(1) It is hereby declared to be the national freight rates policy that differences in rates as between various parts of Canada, although not amounting to unjust discrimination within the meaning of Section 314, shall be eliminated as far as may reasonably be practicable, having due regard to all proper interests, and the Board is hereby empowered and directed, from time to time, to review the freight rate structure within Canada, with a view to carrying out such policy and to make such orders by way of revision of rates and tariffs or otherwise as it may deem proper.

(2) Without restricting the generality of subsection (1) the Board may require any railway company

- (a) to establish a uniform scale or scales of class rates applicable on its system in Canada;
- (b) to equalize as between different parts of Canada, any scale or scales of mileage commodity rates applicable to the same commodity or commodities;
- (c) to revise any other tariffs or rates which, in the opinion of the Board may reasonably be equalized as between different parts of Canada.

or as an alternative to the whole of Section 332A, amend Section 322 to read as follows:

Section 322

(1) The tariffs of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification and all tariffs other than tariffs naming competitive tolls uniform throughout Canada, as far as may be, having due regard to all proper interests.

PROPOSAL RE SECTIONS 379 AND 380

379

(1) Every railway company in respect of its railway operations, and every telegraph, telephone and express company and every carrier by water shall annually prepare returns, in accordance with the forms and classifications for the time being required by the Board, of its assets, liabilities, capitalization, revenues, working expenditures and traffic.

380

(1) Every railway company in respect of its railway operations, and every telegraph, telephone and express company and every carrier by water, if required by the Board so to do, shall prepare monthly returns of its revenues, working expenditure and traffic and all other information that may be required.

PROPOSAL RE SECTION 18

Add as subsection (5)

(5) For the purposes of this section "trackage" shall mean "railway" as defined in this Act but excluding rolling stock, equipment, stores and personal property.

Canada. Railway Legislation
HOUSE OF COMMONS

Fifth Session—Twenty-first Parliament
1951

-51014
(Second Session)

SPECIAL COMMITTEE

ON

RAILWAY LEGISLATION

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

IN RELATION TO

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act,
1933;

Bill No. 7, An Act to amend the Maritime Freight Rates Act;

Bill No. 12, An Act to amend the Railway Act.

WEDNESDAY, NOVEMBER 14, 1951.

WITNESSES:

Mr. Rand Matheson, Executive Manager, The Maritimes Transport Commission and Mr. F. D. Smith, K.C., Counsel;

Mr. F. C. S. Evans, K.C., Vice-President and General Counsel, Canadian Pacific Railway Company.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
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1951

SPECIAL COMMITTEE

on

RAILWAY LEGISLATION

Chairman: Mr. Hughes Cleaver.

Vice-Chairman: Mr. H. B. McCulloch.

and

Messrs.

Argue,	Green,	MacNaught
Ashbourne,	Helme,	Macnaughton,
Benidickson,	Johnston,	Mutch,
Brooks,	Kirk (<i>Digby-Yarmouth</i>),	Nowlan,
Browne (<i>St. John's West</i>),	Lafontaine,	Picard,
Byrne,	Laing,	Pinard,
Cavers,	Low,	Riley,
Chevrier,	Macdonald	Stewart
Churchill,	(<i>Edmonton East</i>),	(<i>Yorkton</i>),
Diefenbaker,	Macdonnell	Weaver,—31
Gillis,	(<i>Greenwood</i>),	

(Quorum 10).

ANTOINE CHASSE,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS, Room 277,
WEDNESDAY, November 14, 1951.

The Special Committee on Railway Legislation met at 3.30 o'clock p.m. The chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Argue, Ashbourne, Byrne, Brooks, Cavers, Chevrier, Churchill, Cleaver, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), MacNaught, Macnaughton, McCulloch, Mutch, Pinard, Riley, Weaver.

In attendance: Mr. Hugh E. O'Donnell, K.C., Montreal, appearing on behalf of the Canadian National Railways with Mr. H. C. Friel, K.C., General Solicitor for the C.N.R.; Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company with Mr. C. E. Jefferson, Vice-president of Traffic, and Mr. K. D. M. Spence, Commission Counsel, also of the Canadian Pacific Railway Company; Mr. George A. Scott, Director, Bureau of Transportation Economics, Board of Transport Commissioners; Mr. Leonard T. Knowles, Special Adviser of Traffic to the Royal Commission on Transportation; Mr. W. J. Matthews, K.C., Department of Transport; Mr. J. A. Argo, Assistant Vice-president, Freight Traffic, Canadian National Railways; Mr. Rand Matheson, Executive Manager and Mr. F. D. Smith, K.C., Counsel, of the Maritimes Transportation Commission, representing both the Commission and the four Maritime provinces; Mr. M. A. MacPherson, K.C., representing the province of Saskatchewan; Mr. J. J. Frawley, K.C., representing the province of Alberta; Mr. C. W. Brazil representing the province of British Columbia; Mr. C. D. Shepard, K.C., Counsel, Mr. R. S. Moffat, Economic Adviser, and Mr. F. C. Cronkite, K.C., Counsel, representing the province of Manitoba; Mr. S. B. Brown, Manager, Transportation Department, The Canadian Manufacturers Association, Toronto; and Mr. H. A. Mann, General Secretary, The Canadian Industrial Traffic League Incorporated, Toronto.

The Chairman informed the Committee that Mr. F. C. S. Evans, Vice-president and General Counsel of the Canadian Pacific Railway Company, in attendance today, had indicated that he had answers ready to a few questions which were asked of him at a previous meeting. On the other hand Mr. Rand Matheson, Executive Manager, and Mr. F. D. Smith, K.C., Counsel, representing The Maritimes Transportation Commission and the four Maritime provinces, were also in attendance and ready to proceed with their submission.

Some discussion took place as to whether Mr. Evans should be recalled before proceeding with the hearing of the submission by The Maritimes Transportation Commission and the four Maritime provinces.

Mr. Green moved that Mr. Evans should be recalled first.

And the question having been put on the motion of Mr. Green, it was, on a show of hands, resolved in the negative on the following division: Yeas, 5; Nays, 9.

Mr. Matheson and Mr. Smith were called.

Mr. Matheson presented the submission of the Maritimes Transportation Commission and of the four Maritime provinces and he was questioned at length

thereon. The witness filed with the Committee a statement of Schedule of rates which was ordered printed as Appendix "A" to the day's Minutes of Proceedings and Evidence.

Mr. Matheson was assisted by Mr. F. D. Smith, K.C., Counsel for the Commission and for the four Maritime provinces. During Mr. Matheson's examination Mr. Smith was questioned for brief periods.

Messrs. Matheson and Smith, at the conclusion of their testimony, were thanked by the Chairman for their elaborate presentation and they were retired.

Mr. F. C. S. Evans, K.C., of the Canadian Pacific Railway Company, was recalled. The witness filed a number of returns in answer to questions asked of him of his original examination at the previous sitting of the Committee. And the witness was retired.

On motion of Mr. Ashbourne:

Resolved: That an additional 300 copies in English of the Minutes of Proceedings and Evidence, Volumes 1 and 2, be printed and that a total of 1,000 copies in English of the Minutes of Proceedings and Evidence of the Committee be printed from day to day hereafter.

At 6.10 o'clock p.m., the Committee adjourned to meet again at 1.00 o'clock a.m., Thursday, November 15.

ANTOINE CHASSE,
Clerk of the Committee.

EVIDENCE

NOVEMBER 14, 1951

3:30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. Mr. Evans has indicated that he has answers ready to a few questions which were asked of him at a previous meeting. Is it the wish of the committee that those answers be tabled now, or shall we carry on with Mr. Rand Matheson?

Mr. JOHNSON: Is he just going to table his answers?

Mr. EVANS: (Vice-President, C.P.R.): With a few minutes of explanation of some of the figures.

The CHAIRMAN: I think we had better carry on then with Mr. Matheson.

Mr. GREEN: Mr. Chairman, are those figures going to be tabled, or should we not first have a complete statement?

The CHAIRMAN: Mr. Evans has indicated that he wishes to make some explanation in regard to them. He is going to be constantly in attendance; but these other folks have come from a long distance away.

Mr. GREEN: Mr. Chairman, we are not going to finish with this matter today, no matter from how far they have come. Therefore, I would suggest that we keep the record in order and that Mr. Evans put his answers in now.

Mr. MACNAUGHT: What was the nature of the questions, Mr. Chairman?

The CHAIRMAN: The questions were questions asked in regard to certain operating costs, as I recall it. I do not think it would be serious to the continuity of our record. We asked Mr. Rand Matheson to attend to give evidence here today, and since he comes from so far away, I would hesitate to detain him, Mr. Green.

Mr. GREEN: Well, Mr. Chairman, there are representatives here from eight of the provinces of Canada. They all realize, just as you realize and each member of the committee realizes, that this submission is not going to be finished in a day or two. Therefore, I think that in the interest of order we should get the railways story completed and then go on to hear Mr. Matheson. Otherwise, when will we get it? In the middle of Mr. Matheson's submission, or after the Alberta submission? It just complicates the record. I do not see why we should not finish with the one story first.

The CHAIRMAN: Let there be a show of hands on this question. Is it the wish of the committee that Mr. Evans, Vice-President of the Canadian Pacific, should now table certain answers which he has ready? All those in favour please indicate?

The CLERK: Five.

The CHAIRMAN: And all those opposed, please indicate?

The CLERK: Nine.

The CHAIRMAN: Very well. Let us call Mr. Matheson.

Mr. Rand Matheson, Executive Manager, Maritimes Transportation Commission, called:

The CHAIRMAN: Mr. Matheson, you may either stand or sit, whichever you prefer.

Mr. CAVERS: This is a very difficult room to be heard in, Mr. Chairman; so I wonder if the witness would speak up so that we can all hear him?

The CHAIRMAN: Did you hear that, Mr. Matheson?

The WITNESS: Yes sir.

Mr. Chairman, and members of this committee:

The Maritimes Transportation Commission appreciates this opportunity to appear before your committee to present its position in connection with:

Bill 12—An Act to amend the Railway Act

Bill 6—An Act to amend the Canadian National-Canadian Pacific Act 1933

Bill 7—An Act to amend the Maritime Freight Rates Act.

The Maritimes Transportation Commission is an affiliate organization of the maritime provinces board of Trade which embodies approximately 116 boards of trade in the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland. This commission is also authorized and financially supported by the governments of the four Atlantic provinces, and represents also the four maritime governments in this submission.

Re Proposed Amendments To The Railway Act.

It is considered essential to a proper understanding of the position taken by this commission respecting certain proposed amendments to the Railway Act that your committee have before it a brief historical back-ground of the evolution of rate regulation in the maritime region, and also the maritime freight rate structure.

Gentlemen, you have a copy of our submission with regard to the evolution of regulations, so I do not think it is necessary for me to read this particular part. But I do wish to bring to your attention the appendix, because it might be referred to in a few instances. However, I do not intend to read that particular appendix. It is given just for your information and for the purpose of making comparisons.

The Evolution of Regulations

The Railway Act, although effected in 1904, did not apply to the inter-colonial railways nor subsequently to the group of railways, including the inter-colonial system, comprising the "Canadian government railways" until order in council P.C. 115 was passed on January 20, 1923. Enabling legislation had previously been provided by section 5 of the Railway Act and section 16 of the Canadian National Railways Act 1919 (as subsequently amended by chap. 13 of the statutes of Canada 1928, and section 19 Canadian National Railways Act, chap. 172 revised statutes of Canada 1927).

Order in council P.C. 115 entrusted the "Canadian government railways" to the Canadian National Railway Company for management and operation only. Railways owned and controlled by the Canadian Pacific Railways in the maritimes were, however, subject to the board's jurisdiction from the inception of the Railway Act.

The Maritime Freight Rates Act 1927, which implemented certain recommendations of the Royal Commission on Maritime Claims (hereinafter referred to as the Duncan Commission) provided for special rates on freight traffic moving within and out of the maritime region as defined therein. The special enactment took precedence over the Railway Act to the extent provided in

sections 3, 7, and 8 of the Maritime Freight Rates Act. Incidentally, the agreed charges part of the Transport Act 1938 (part V) contains a section (37) which also subjects agreed charges to the Maritime Freight Rates Act. The proviso reads in part as follows:

"Nothing in this part contained shall affect any right or obligation, granted or imposed, by the Maritime Freight Rates Act. . . ."

When Newfoundland became a province of Canada on April 1, 1949, the Newfoundland Railway also became subject to the jurisdiction of the board perforce of section 32 of the terms of union, section 13 of the enabling legislation of the statute law (Newfoundland) Amendment Act, and by order in council P.C. 1454, dated April 1, 1949, pursuant to the provisions of the Canadian National Railway Act.

I now direct your attention to page 3 under heading (ii) "The evolution of the rate structure".

The Evolution of the Rate Structure

The preamble of the Maritime Freight Rates Act succinctly sets forth the basic findings of the Duncan Commission, while at the same time gives statutory recognition to the policy as reflected in the rate structure from the completion of the Intercolonial Railway in 1876 until 1912. The preamble reads as follows:

I think the following preamble should be read at this time because it brings up to date the findings of the Duncan Commission as of 1927.

WHEREAS the Royal Commission on Maritime Claims by its report, dated September 23rd, 1926, has, in effect, advised that a balanced study of events and pronouncements prior to Confederation, and at its consummation, and of the lower level of rates which prevailed on the intercolonial system prior to 1912, has in its opinion, confirmed the representations submitted to the commission on behalf of the maritime provinces, namely, that the Intercolonial Railway was designed, among other things, to give to Canada in times of national and imperial need an outlet and inlet on the Atlantic ocean, and to afford the maritime merchants, traders and manufacturers the larger market of the whole Canadian people instead of the restricted market of the maritimes themselves, also that strategic considerations determined a longer route than was actually necessary, and therefore that to the extent that commercial considerations were subordinated to national, imperial and strategic conditions, the cost of the railway should be borne by the dominion, and not by the traffic which might pass over the line;

"AND WHEREAS the Commission has, in such report, made certain recommendations respecting transportation and freight rates, for the purpose of removing a burden imposed upon the trade and commerce of such provinces since 1912, which, the Commission finds, in view of the pronouncements and obligations undertaken at Confederation, it was never intended such commerce should bear;

AND WHEREAS it is expedient that effect should be given to such recommendations, in so far as it is reasonably possible so to do without disturbing unduly the general rate structure in Canada;

THEREFORE His Majesty, by and with advice and consent of the Senate and House of Commons of Canada, enacts as follows;—"

The Duncan Commission was satisfied that up to 1912 the freight rate structure on the Intercolonial Railway reflected a "fulfilment by successive governments of the policy and pledges" incipient with the railway. Evidently maritime trade and commerce was able to bear the then prevailing rate structure. Subsequent to 1912 and to the time of the commission's report (1926) it was found that the "Intercolonial rates have suffered an estimated cumulative increase of 92 per cent" (i.e., their 100 became 192), whereas "the estimated average increase

of rates for the rest of Canada" was "55 per cent" (i.e., their 100 became 155). This finding led to the following recommendation:

"That an immediate reduction of 20 per cent (so that 192 will become approximately 155) be made on all rates charged on traffic which both originates and terminates at stations in the Atlantic Division of the Canadian National Railways (including export and import traffic, by sea, from and to that division), and that the same reduction be also applied to the Atlantic Division proportion of the through rates on all traffic which originates at stations in the Atlantic Division (excluding import traffic by sea), and is destined to points outside the Atlantic Division."

The Maritime Freight Rates Act of 1927 gave effect to that particular recommendation.

It is not necessary to detail the events, pronouncements, and agreements which led to the adoption of section 145 of the British North America Act 1867 which provided for the construction of the Intercolonial Railways, nor to the rate policy that was into effect up to about 1912, since there exists ample evidence and findings that the Intercolonial Railway is a "condition precedent" and a "sine qua non" of Confederation without which there would have been no union of the provinces in 1867, and that the rate structure until about 1912 did reflect a policy "to afford to maritime merchants, traders and manufacturers, the larger market of the whole Canadian people instead of the restricted markets of the maritimes themselves."

Although the "Canadian government railways" were not subject to the Railway Act and the jurisdiction of the then Board of Railway Commissioners prior to January 20th, 1923, the rate structure of the railway was, as found by the Duncan Commission, revised upwards from time to time in the period 1912 to 1924. These increases reflected either adjustments authorized by the board on application of the railways subject to the Act, or pursuant to order in council, or by voluntary action on the part of the management of the Intercolonial to equalize the rate structure within the maritimes and from the maritimes westward to destinations in Canada.

The levelling upwards of the maritime rate structure reached its zenith after the Intercolonial became subject to the jurisdiction of the Board of Railway Commissioners in 1923. On May 10th of that year the maritimes standard mileage scale was increased to the level of the Quebec-Ontario (central) scale and approved by the board.

In other words, the scale was equalized with the Ontario and Quebec scale.

The Royal Commission on Dominion-Provincial Relations and several studies prepared for that commission made a number of references to the maritime freight rate structure and the increases that were effected in the period between 1912 and 1927. A few of the conclusions in the report were:

That the rates imposed by the management of the Intercolonial in 1912, and continued for fifteen years, were wholly commercial in character is beyond question.—(Book 2, page 254).

The only flagrant case of disturbing established differentials to the injury of a region was the equalizing of maritime rates with those of the Central Division in 1912. This was done by the management of a railway under government control—(Book 2, page 197).

Similar findings were reached by Professor W. A. Mackintosh in his study for that commission as follows:

Transportation rates have been modified to the advantage of those regions least favoured by competitive influences. The chief, and important, exception was in the period 1913 to 1923 when rate changes were distinctly adverse to the maritime provinces.—(Published Reports, Appendix 3, page 97).

In the study prepared by Mr. R. A. C. Henry and associates for the same commission there is contained this statement at page 85:

In the Maritime Tariff of March 1, 1898, the rates of the Quebec-Ontario scale were adopted but not for the same distance This procedure reflected the rate-making policy of the government on the Intercolonial Railway.

From the foregoing it is abundantly clear that:

1. The freight rate structure in the maritimes had as its basis the rates of the Intercolonial Railway, which in turn were predicated on national policy and competition.

I refer there specifically to water competition.

2. Between points on the Intercolonial system and stations on other railroads outside the maritimes, even before the Board of Railway Commissioners were established in 1904, the joint through rates were partly influenced by the rate policies of other railroads.

3. Government policy, as reflected in the rate structure, appears to have been reasonably maintained until about 1912.

4. Between 1912 and 1924, in addition to reflecting general increases and decreases as prescribed by the Board of Railway Commissioners, the maritime rate structure was subject to a "levelling-up" process so that basically it became equalized, to a considerable extent, with the central Quebec-Ontario structure.

Before 1923 the board's considerations of rate adjustments involving traffic between the maritimes and central Canada could be directed only to the regulated C.P.R., although indirectly the low rate requirements of the Intercolonial continued to exert a mollifying influence. The effect of the Intercolonial structure on the short line C.P.R. was recognized by the board in a number of its judgments. For example, in the Western Rate Case (17 C.R.C. p. 123 and pp. 163 and 164) the board, in referring to the revenue of the C.P.R. in the Atlantic Division stated:

The rates in the maritime provinces are low, not only as a result of water competition, but also as a result of rates obtaining on the Intercolonial, whose operations have largely resulted in deficits.

Further reference to the necessary low rates of the Intercolonial in that period is contained in several other subsequent judgments of the board. For example, in the Eastern Rates Case (VI J.O.R. & R. p. 133 and p. 207) the following statement is found:

. but it is certain that the Intercolonial was constrained to arrange these rates in order to get its lumber traffic into Ontario at all.

The arbitrary rate structure of the maritime provinces is also discussed at length in this latter decision.

This system of constructing rates between the maritimes and other parts of Canada was a logical product of the policy inherent in the construction and operation of the Intercolonial. (An arbitrary structure is based on adding or

deducting fixed amounts from a rate from one station to make a rate from another, or a fixed amount added to or deducted from a rate to one station to make a rate to another station).

The board again discussed the arbitrary structure of the maritime provinces in the so-called 1922 Reductions Case. The following excerpts from the board's judgment in that case are important:

Following the opening of the all-rail route, the rates between maritime province points and territory west of Montreal were constructed by the addition to the Montreal rate of a scale of arbitraries.

and

This system of rate making between the territories in question was in effect long before the creation of the board and has since been carefully considered, particularly in the Eastern Rates Case in 1916, more extended reference to which is contained in the judgment in that case; it is an integral part of the whole class rate structure in eastern Canada and could not be changed without involving disturbance of the entire rate fabric in this territory.—(XII J.O.R. & R. p. 61 and pp. 68 and 69).

Then, again, the Board of Transport Commissioners in its judgment in the so-called Newfoundland case, dated January 22, 1951 (XL J.O.R. & R. 351) prescribed groups and arbitraries to be followed in the construction of class rates between points in Newfoundland and points in Canada outside the select territory as defined by the Maritime Freight Rates Act. These arbitraries were derived from the arbitrary structure existing on the maritime mainland.

The Royal Commission on Transportation discussed the arbitrary structure of the maritimes at pages 149 and 151 of the report and said:

. the board has recognized the importance of these arbitraries in the system of rate-making and over the years it has raised and lowered them;—(Page 150)

and

As has been stated by the board, the use of arbitraries in the system of rate-making is an integral part of the whole class rate structure.—(Page 151)

It is the general consensus that the Maritime Freight Rates Act had, at least for a few years, the salutary effect of arresting the adverse trend in the maritime economy, and improving the competitive position of small scale and marginal industries, even though the "broad measuring" adopted in reducing the rate level that existed on June 30, 1927, did not re-establish, in many cases, the relative position that had prevailed before the "levelling-up" process had been instituted.

The Royal Commission in its chapter on the Maritime Freight Rates Act emphasized the guiding principle as contained in the preamble as to the purpose and intent of the Act, and subsequent to references to various controlling sections said:

These sections appear to be exceptionally broad in scope and stringent in application. They are not concerned with granting equality in treatment between the select area and the rest of the country. On the contrary they prescribe advantages in rates which persons and industries in this area are to enjoy over those in the other areas. And they make it the board's duty not to approve or to allow any tariffs which may affect such advantages.—(Page 229)

As has already been pointed out the reasons for the enactment of the statute are expressed in its preamble. The object of the calculation which led to the adoption of the 20 per cent reduction in rates was to

restore the advantages of the rates, lower than those in force in the other parts of Canada, which the maritimes had enjoyed prior to 1912.—(Page 234)

The Canadian Pacific Railway proposed that the board be given power to adjust or vary tolls under the Act as may, in its opinion, be necessary to give effect to any general readjustment of rates in Canada.—(Page 232).

The railway pointed out...the Act might stand in the way of an equalization proposal.—(Page 232).

The Canadian Pacific amendment was—

proposed in view of the general freight rates investigation now being conducted by the board. The order in council calling for this investigation, P.C. 1487, was issued in April, 1948, eight months before this commission was appointed. One of its purposes is to secure the equalization of freight rates, but it expressly excludes from this equalization such rates as are now governed by statute. These are the Crowsnest Pass rates and the rates established under the Maritime Freight Rates Act. Shortly after order in council P.C. 1487 was issued the question of possible amendments to legislation in order to make equalization more effective was dealt with between the government and the board. Under these circumstances it is best to leave matters as they stand and no recommendation by this commission appears to be called for.—(Page 236).

When the Maritime Freight Rates Act became effective, the inroads which commercial motor vehicles had been making on railway traffic, particularly in the central provinces, had been causing considerable concern to the railways. In fact, a decision had not been reached at that time as to what measures should be taken to meet the growing competition. As the depression of the '30's and increasing competition of other types of carriers were reflected in the operating revenues of the railways, they undertook to meet the situation by drastically reducing rates to recoup some of the traffic. This policy was more manifest in the central provinces where, for various obvious reasons, competition was keener. As a consequence, some of the benefits that had obtained from the Maritime Freight Rates Act were whittled away and, in some cases, the relative position of maritime industries rate-wise was worse than before the Act.

A study of the competitive rate situation that developed resulted in the following findings:

1. Competitive rate reductions have not only been more extensive but also have been generally greater in the central provinces than in the maritimes.
2. Competitive rates in the central provinces have been either lower than rates reduced under the Maritime Freight Rates Act on corresponding originating commodities in the maritimes for corresponding distances, or, considering re-imbursements under the Maritime Freight Rates Act, the revenue to the railways in respect of competitive rates has been generally greater in the maritimes.
3. Competitive rates from the maritimes to the central provinces have applied only on a limited number of commodities. Moreover, these reduced rates—contrary to the situation in the central provinces—generally obtain only during the season of open navigation.
4. From central Canadian points competitive rates also have applied during the season of open navigation on a limited number of commodities.
5. Competitive rate reductions in the central provinces have increased the rate disadvantages of maritime industries in the principle markets of Ontario.

6. Competitive rates on a number of commodities between the maritimes and central Canada have, during the last few years, been withdrawn or placed on a higher basis reflecting also general revenue increases.
7. Railway competitive tariffs while indicating almost daily adjustments involving cancellations, additions, and other changes, still contain a substantial number of competitive rates in the central provinces.

In summation, the maritime rate structure today is based upon national, imperial, strategic, constitutional and legislative conditions, in addition to competitive and other traffic conditions that obtain from time to time. Moreover, the structure applying between the maritimes and other parts of Canada consists generally of a system of rate groups and arbitraries which subordinate distance to an arrangement that affords "to maritime merchants, traders and manufacturers the larger markets of the whole Canadian people" and at the same time reflects competitive influences. This system is recognized by the Royal Commission on Transportation as an integral part of the rate structure of this region.

I regret that I have not got extra copies of a map; I have just parts of that exhibit which we had in a freight rates case that fortunately I have with me at this time, but in trying to explain the arbitrary structure of the groupings it is most confusing, and with the permission of the chairman I wish to have this passed along and I can leave this set with the committee and I will endeavour to see if I can possibly get more for the various members of the committee in due course.

There are two maps here. One constitutes the eastbound groupings and the other constitutes the westbound groupings only of the three provinces. Unfortunately, I do not have a map to show the groupings in so far as Newfoundland is concerned.

I might say at this point that Newfoundland is divided into four groups, that is to say, from North Sydney to Port aux Basques is one group, from Port aux Basques to Humbermouth is another group, from Humbermouth to Bishop's Falls and from Bishop's Falls to Saint John's.

In the eastbound area there are a total of seven groups plus the four to Newfoundland and westbound four groups plus the four to Newfoundland, giving a total of eight. I think I should at this time also point out that on the westbound traffic the distance of the large group which is the so-called Halifax group via Campbellton, New Brunswick, is 665.8 miles. That is the westbound groups on traffic to stations—Montreal and west thereof in Quebec and Ontario.

Westbound to stations in western Canada the Halifax-maritime group extends from Halifax to Quebec city; in other words, on a class rate within that particular group the same rate applies from Halifax as applies from Quebec to Winnipeg.

Eastbound—this large Halifax group is divided into two groups, the so-called New Brunswick group or Saint John group and the Halifax group. The Saint John group eastbound, taking from Montreal, for example, extends from a place known as Millstream north of the border between New Brunswick and Quebec and extends to a point known as Painsec Junction, which is a short distance—around about fifteen miles out of Moncton towards Halifax. And then there is the Halifax group on the eastbound which extends from Painsec Junction into Halifax and down on the Sydney subdivision as far as New Glasgow.

I am pointing this out at this present time to show the typical groups that exist in the maritimes area and these large groups—while in some parts the groups are smaller in mileage than the large groups—the large groups have an effect on the shorter groups, that is to say, the benefits accruing from the large groups are naturally reflected in the smaller groups which obtain in other parts of the maritime area.

With your permission, sir, I will pass these maps along.

The Maritime Freight Rates Act partially offset the "levelling-up" process which, prior to the passing of the Act, had had an adverse effect on the maritimes economy. The Royal Commission on Transportation points out that the Maritime Freight Rates Act is "not concerned with granting equality in treatment between the select area and the rest of Canada." Indeed, the main purpose of the legislation was to offset a rate equalizing process which other royal commissions found to be adverse to the maritime economy. The Royal Commission on Transportation refused to entertain a railway recommendation to amend the Act to enable the equalizing of certain rates.

Subsequent to the passing of the Act, increased carrier competition in the central provinces resulted in nullifying some of the benefits flowing from the legislation. This keen carrier competition still exists.

With the necessary background pertaining to the evolution of rate regulation in the maritimes and the maritime rate structure, the next part undertakes to deal with the position of the maritimes regarding the proposed amendments, particularly section 332A—the national rate policy proposal. The latter amendment is purposely left for discussion at the last.

iii. *In the Matter of the Proposed Amendments*

This Commission has no comments to make respecting these proposed amendments.

This Commission is in agreement with the repeal of subsections 2, 3, and 4 of Section 52, and the substitution therefor of the proposed subsections 2 and 3 for the reasons set forth by the Royal Commission on Transportation at page 80 of its Report.

This Commission has no objection to the proposed amendment to subsection 6 of section 323, *providing* that there is contained in the Board's regulations the same requirements respecting the filing and notice of effective dates for increases and decreases of class and commodity rates as stipulated in the existing section 331 of the Railway Act.

The proposed amendment to subsection 3 of section 325 is acceptable to this Commission providing it is clearly understood that in acceding to such a proposed change it is not to be interpreted as acquiescing to any readjustment of rates that would adversely affect the Maritimes.

It is the belief of this Commission that there has long existed a need to amend section 328 in order to place in the statute a clear definition of the various descriptions of tariffs of tolls in common usage.

I am not going to go over in detail these various parts inasmuch as you have copies of the brief of the commission before you.

Mr. MACNAUGHT: You had better read those sections, they are important.

The WITNESS:

This commission is also in agreement with the proposed subsection 5 of section 328, particularly the enumeration contained therein since it should remove any question as to the Board's jurisdiction in considering any changes in special arrangements that in any way would increase or decrease the charges to be paid on any shipment or that would increase or decrease the value of the service provided by the company. It is recommended that "wharfage" be added to the list after the word "cartage."

Incidentally we are not concerned about a word here or a word there in the mechanical sections. In the main the mechanical sections appear to us to be generally acceptable. There might be a few changes here or there.

As to the addition of wharfage; it is to be pointed out that wharfage charges are not defined in the Railway Act and that therefore it does not come within the Board's jurisdiction at present. The same thing applies with respect to certain cartage charges. I thought I should mention that as there may be cases arise which would involve the question of the construction to be placed on the word "wharfage". As special services are mentioned in there we suggest that the word "wharfage" should also be added.

Since proposed section 329 constitutes a change in consonance with the proposed elimination of standard class rates and the substitution therefor of a uniform class structure, it will subject to the same objections of this Commission directed against any changes which would adversely affect the existing maritime structure.

That is to say, we have no objection to that particular section because after all it is a mechanical section. But we do not want the few remarks we are going to make to be taken as in any way as acquiescing to anything that might be adverse in connection with our situation.

While it may be taken for granted that the board by regulations will give effect to the existing requirements of section 331 respecting filing and notices of effective dates of present special tariffs in connection with the proposed class and special arrangement commodity tariffs, this commission would prefer to have section 330 clearly stipulating the requirements respecting filing and notice of effective date, etc., in a similar manner as set forth in existing section 331.

But in regard to that we have no serious concern because we feel that the Board of Transport Commissioners will more or less follow previous policy in regard to regulations.

Clause 7 (Section 331)—

This commission is in favour of proposed section 331 except the word "actually" contained in subsection (2) (a). There have been instances in the experience of this commission where it could be restrictive to wait until competition was actual.

Clause 7 (Section 332)—

This commission respectfully recommends that proposed section 332 be amended to read somewhat as follows:

332. Whenever there shall be filed with the board any class, commodity, or special arrangement tariff that advances a rate or charge or charge previously authorized under this Act, the board shall have and, is hereby given, authority, either upon complaint or upon its own motion without complaint, to enter upon a hearing, on reasonable notice, concerning the lawfulness of such rate, charge, regulation or practice; and pending such hearing and decision thereon may suspend the operation of such rate, charge, regulation or practice; the burden of proof justifying the proposed advance or any new regulation or practice shall be upon the company filing tariff.

This commission considers that no increase in class, commodity, or special arrangements which the board has previously authorized should be allowed to go into effect until after a hearing and a decision thereon if there has been a complaint filed with the board or if it appears to the board that an advance in rates or charges or new regulations or practices resulting in advances might be unlawful.

Clause 7 (Section 332B)—

The new section 332B is noted with considerable interest as a proposal with the object of remedying arbitrarily a grievance of long standing

respecting the application of competitive transcontinental rates to the intermediate territory of western Canada. If the objective intended by the proposed amendment is attainable thereby and all related intermediate rates are reduced as a result, this commission has no objection to the amendment.

Clause 8 and 9 (Subsection 2 to Section 333, and subsection 1 of section 334 respectively)—

Since these proposed amendments are merely to bring the existing sections in line with proposed section 332A they are subject to any general objection of this commission regarding the latter section.

(Perhaps that might appear on the surface to be a greater objection than it actually is.)

At this point attention is drawn to the fact that there is no thirty days notice required for increases in special passenger tariffs. It is suggested that appropriate changes be made in the Railway Act so as to provide the same period of notice as in the case of freight tariffs.

Clause 10 (New subsection 4 to section 336)—

This commission has long advocated the greater application of joint rates in the maritime region, and it therefore endorses this proposed amendment as a step in the proper direction.

Clause 11 and 12 (Repeal of subsections 1, 3, and 4 of Section 342 and amendment to subsection 4 of section 375)—

As this amendment constitutes a re-alignment to match previous proposed changes, this commission has no observations to make thereon.

Clauses 13 and 14 (Subsection 1 of section 379 and subsection 1 of section 380)—

This commission concurs in these proposed amendments broadening the requirements as to monthly and annual statistical returns.

Clause 15 (Sections 380A and 380B)—

These proposed changes are in consonance with recommendations of this commission to the Royal Commission on Transportation and no further comment is necessary.

Clauses 16 and 17 (Section 383 and paragraphs (a) and (b) of subsection 1 of section 437)—

This commission has no comment to make at present regarding these proposed amendments.

Clause 18—

This commission considers that assistance as proposed under clause 18, or any assistance of a similar nature, should be deductible from income for tax purposes, and a permissive section to this effect should be incorporated in the new section.

And now, this would appear to be mostly a matter in which the western provinces are interested, and that is the suggestion we were putting forward at this time.

iv. In the Matter of Clause 7—Proposed Section 332A.

(a) Exception Respecting Maritime Freight Rates Act.

While it is provided in subsection 1 by reference to subsection 4, and specifically in subsection 4 of proposed section 332A that the proposed national freight rates policy respecting freight rate equalization as set forth in subsections 1, 2, and 3, is subject to the Maritime Freight Rates

Act, it is not clear what actually is intended to flow from this proviso. Is it merely intended to mean that the maritime freight rate structure is to be made uniform with the rest of Canada, so far as it is reasonably possible, except that rates subject to the Maritime Freight Rates Act will be reduced to the extent provided by that Act?

We have made a considerable study of this but not a complete study and as a result of these studies we have come to the conclusion on the basis of the information before us that by taking, by way of illustration, the schedule "A" basis of rates in Ontario and Quebec and relating those to the maritimes on a mileage basis and extending it to various points in Ontario and Quebec—unfortunately we do not have the scale projected all the way to the west, but that is still part of the study which has not been completed as yet—but in projecting these rates in relation to the existing rates of the large groupings, and not necessarily with reference to the railway study; but, taking schedule "A" scale of rates in Ontario and Quebec there will result, generally speaking, an increase in the rate structure in the maritime provinces if that uniform rate scale were applied to and from the Maritime Provinces. I have got only several copies of the study, but I am going to refer to a memorandum I have here and take a few illustrative points. We will take from Toronto, Ontario, to Halifax, Nova Scotia. The present schedule A rates are the basis of class rates that exist in Ontario and Quebec, now taking the first class rate of this scale extended to Halifax it would amount to \$2.56 at the present level of the rates compared with \$1.94 from Toronto to Halifax at the present time. Let us take Sydney From Toronto to Sydney, first class schedule A rate as increased and extended to the Maritimes would be \$2.81. The present class rate is \$2.04 From Montreal to Halifax, first class, \$2.11, under the schedule A basis compared with \$1.69 as in effect.

Mr. JOHNSTON: May I ask the witness is that in the table.

The WITNESS: That is not in the brief here. I have only a few copies, but we will leave a copy with the secretary.

The CHAIRMAN: Would you mind—because I think perhaps other members of the committee are also a bit mystified as well as I am—laying a little ground work to indicate how you arrive at these new proposed rates. Are you arguing that under the existing rates you had some preferences in addition to and entirely apart from the maritime 20 per cent subsidy?

The WITNESS: That is right.

The CHAIRMAN: Well, under what provision of the Railway Act did you enjoy those additional preferences?

The WITNESS: The maritime structure is predicated on large groups...

The CHAIRMAN: Yes, but if I may interrupt, I just want to clarify this. I do not understand your submission from now on at all. By referring to the royal commission report at pages 150-151, is not the question of arbitraries fully dealt with there, and do not the commissioners there state that the use of arbitraries in the system of rate-making is an integral part of the whole class rate structure? Why do you suggest that you anticipate any change? Is there anything in the legislation before us to indicate a change?

The WITNESS: Perhaps I had better read the rest of this and I think it will be cleared up.

The CHAIRMAN: I am sorry. I cannot understand a word of what you are saying now.

Mr. JOHNSON: In view of the commissioners' statement on page 151, No. 5, it seems to me that is quite clear in the commission report.

The CHAIRMAN: Perhaps, Mr Matheson, I should let you finish your submission and ask you questions later.

The WITNESS: Under section 332A—

The CHAIRMAN: What clause?

The WITNESS:

"332A. (1) It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description and carried on or upon the like kind of cars or conveyances passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

(2) The Board may, with a view to implementing the national freight rates policy, require any railway company

(a) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;"

In answer to your question, sir, and pointing out that we have these large groups with relatively low arbitraries in the maritimes—with one group extending from some 600-odd miles to St. Charles, Quebec, and from there it would be only about 500 miles to Toronto—if you were going to convert the Maritime structure to a strictly mileage basis, on a block basis, it would have the tendency to break down that large grouping that now obtains in the maritime provinces in relation to this particular distance, and also, as Mr. Smith points out, in regard to our arbitraries. Does that answer your question, sir?

The CHAIRMAN: I have the answer but I will reserve judgment as to whether I understand it when you have completed your submission.

Mr. GILLIS: I just want to see that we understand this correctly. I assume now that the witness has left his written brief for a moment to put on the record some examples of what will take place in the maritimes if an attempt is made to bring about equalization of freight rates?

The CHAIRMAN: If you do not mind the interruption, Mr. Gillis, my question was directed at this point: Is there in the legislation anything which leads the witness to believe that.

Mr. GILLIS: I think he is quite clear on that point.

The CHAIRMAN: I have not heard anything yet, but perhaps in his future submission we may get it.

Mr. GILLIS: I think he is clear on that point, that if the board exercises the powers given them under this bill to bring about an equalization of freight rates across the country, and that equalization is applied to the rates in the maritimes, it will disturb the whole structure and upset the benefits to the Maritimes Freight Rates Act. That is his answer, as I understand it.

The CHAIRMAN: No; the witness shakes his head.

The WITNESS: It will not upset the benefits. I want to make this clear that the Maritime Freight Rates Act is still there, the 20 per cent reduction is still applicable, but it does upset the grouping arrangement, and the arbitraries. I think it is the opportune time for me to explain to you what I mean by these arbitraries. The arbitrary structure in the maritimes is historical. It goes back to 1876, when the railroad was constructed. Now, at the present time, these arbitraries are an integral part of the rate structure, say, to Toronto the maritime rates are based on arbitraries over Montreal. Now, what is meant by that? We will take the rate between Montreal and Toronto. There is the class rate between Montreal and Toronto for a distance of 334 miles.

There is a rate of \$1.34 first class. That is part of the class structure I am referring to. Now, from Halifax to Toronto there is a first class rate of \$1.69 for a distance of around 780 more miles compared with the rate of \$1.34 for 334 miles. On a distance of 780 miles you are paying for the Halifax to Montreal proportion of the haul only 35 cents more.

By the Chairman:

Q. Is there anything in the legislation before us that takes away that?—

A. Our interpretation of this particular section is this, Mr. Chairman: you “establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups to include relatively greater distances for the longer than the shorter hauls;”.

There, you are going on a strictly mileage basis.

Q. Well, does it say so? “. . . relatively greater distances for the longer than for the shorter hauls.” I would think that would preserve your position.

—A. It will not work out, sir, in that way, and I am taking a specific illustration between Halifax and Toronto. You have got to keep in mind that there is a distance from Halifax to Montreal of around 780 miles.

Q. Over which you have a flat rate of 35 cents?—A. There is an arbitrary there of 35 cents in relation to the rate from Montreal to Toronto—just 35 cents, and for the distance of 334 miles from Montreal to Toronto the rate is \$1.34, first class.

So, if you are going to relate that structure to a strictly mileage basis you are going to run into this question of blocks.

Q. My worry is this: if our Board of Transport Commissioners, under the existing legislation as it was then, worked out this 35 cent arbitrary for the maritimes, why have you any right to expect that there is going to be any change—if there is no change in the legislation?—A. Well, my reason for that is there is now no declaration of an equalization policy. You now have here, as I see it, a declaration of an equalization policy to be constructed by weight, mileage, or otherwise—to establish a uniform scale of rates across the country.

Q. But have you not the right to anticipate that the Board of Transport Commissioners will read the findings and conclusions of the royal commission, along with the legislation, and if there is no expressed change in the legislation will not the folk from the maritimes argue that their rates are unchanged?—A. Well, Mr. Chairman, as we read this particular section we are concerned about this method of a uniform block system purely on a mileage basis across the country.

Q. Read 150 and 151 over again, please, and I would think that unless there is express legislation taking away from the maritimes those additional privileges they enjoy—

Mr. BROOKS: Does not the next subsection say:

“ . . . a uniform scale of mileage class rates applicable on its system in Canada . . . ”?

The CHAIRMAN: “. . . such rates to be expressed in blocks or groups . . . ”

Mr. BROOKS: You would hardly call a 35 cent rate from Halifax to—where is the place?

Hon. Mr. CHEVRIER: Montreal.

Mr. BROOKS: . . . uniform with the one from Montreal to Toronto?

The CHAIRMAN: If I understand the witness correctly I think that 35 cents net flat rate from Halifax to Montreal is a net rate after taking off the 20 per cent maritime preference. Is not that right?

The WITNESS: Yes.

Mr. BROOKS: I think this was the point Mr. Evans was making the other day. He thought that same section would do away with the maritime's rate.

The CHAIRMAN: Perhaps I should not have interrupted.

The WITNESS: I am glad you did, because I want to get this definite.

By Mr. Green:

Q. Mr. Matheson, is it your submission that subsection of new 332A provides for a national transportation policy covering the whole of Canada, and then in subsection 2 there is provision made for uniform scales of rates all over Canada? For example, if the rate from Halifax to Montreal is 35 cents then the rate over an equal distance from Winnipeg west would be the same rate. Perhaps a better illustration would be the rate over the distance from Montreal to Toronto would have to be the same as for any equal distance in any other part of Canada—or thereby you would lose your lower rate from Halifax to Montreal?—A. We would lose our large groupings. For example, let us assume that they made 100 mile groups for distances of 3,000 miles, and when you get up to a distance of 3,000 miles your groups are extended to 150 miles, keeping in mind the grouping in the maritimes is 650 odd miles, then on a shipment to Vancouver this grouping would be broken down into 100 mile groups.

Q. The groupings would have to be the same all across Canada. You could not have 600 mile groups when in the west they had 100 mile groups. Is that one of the things that worries you?—A. That is what worries us. These large groupings that we have would be destroyed.

Q. It would make them the same as other groupings in other parts of Canada?—A. Yes.

By Mr. Johnston:

Q. Is it not true that you would still maintain your transcontinental rates if you were shipping to Vancouver?—A. That is something else.

Q. They could not be affected under this section you are speaking of?—A. These transcontinental rates are what they call competitive transcontinental rates and they are not involved in this particular section.

Mr. BROOKS: There would be no such thing as an arbitrary from Halifax to Montreal. That would be wiped out entirely?

The WITNESS: There would be some other block or arrangement substituted for it as I see it.

The CHAIRMAN: What is there in the Act or legislation that leads you to believe these arbitraries will be wiped out?

The WITNESS: Because of 332A:

It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

Then, there is the detail specified in Section 2(a).

Hon. Mr. CHEVRIER: Mr. Matheson, how can you say that anything will disturb your rate groupings in the maritimes until such time as the Board of Transport Commissioners has in effect equalized the rates?

The WITNESS: Well, there is authority, Hon. Mr. Chevrier, directly, for them to do that under Section 2.

Hon. Mr. CHEVRIER: Quite, there is authority for them to equalize the rate, but my question to you is: How can you complain now about disturbance of rate groupings in the maritime provinces as they exist today until equalization has actually taken place?

Mr. GREEN: It is too late then.

The WITNESS: The door would be more or less closed.

Hon. Mr. CHEVRIER: I am willing to follow that. It will be too late to follow it up but there is now before the Board of Transport Commissioners, under P.C. 1487, an investigation into the freight rate structure where I hope you will appear—

Mr. SMITH: We have appeared.

By Hon. Mr. Chevrier:

Q. Mr. Smith says you have appeared. Is that not an investigation for the purpose of doing the very thing you wish to do here, and will you not then appear and tell the Board of Transport Commissioners: We think our rate groupings will be disturbed, and, will it not be up to the Board to make sure they are not disturbed in their equalization policy?—A. Hon. Mr. Chevrier, we in the maritimes do not want to be put in that position if there is any possibility of having some proviso or some arrangement provided in this to ensure that we are not going to lose those historical basic groupings. We would prefer to have that rather than to take our chances before the Board of Transport Commissioners.

Q. You are protected under (4) as far as preference is concerned?—A. That is fine, Mr. Chevrier, but we interpret that only to the extent of 20 per cent. In other words, you put a uniform basis into it and then, bango, all we get is 20 per cent.

Q. Do I take it, and perhaps I am not putting it fairly—tell me if I am not—that you are opposed to equalization?—A. In so far as the maritime provinces are concerned—our basic rate structure of the maritime provinces in respect of shipments between the maritime provinces and other parts of Canada, where it would adversely affect us—yes. But we are not opposed to equalization west of Montreal or wherever you want to put it.

Hon. Mr. CHEVRIER: In other words—

By Mr. Riley:

Q. As I understand it, Mr. Matheson, you are not complaining that this is going to happen; but you would like to have some assurance that it is not going to happen, in order to eliminate the possibility that it would happen?—A. That it will not be adverse in regard to our rate structure.

By Mr. Green:

Q. If it is in the Act, and it surely is in the Act, then the Board of Transport Commissioners will have to follow the Act. They cannot set up some other sort of policy.—A. That is correct. If it is in the Act, it is more or less a direction to the board to follow it through on that angle.

There is another point I want to refer to as well. I mean eastbound arbitraries. I have referred to the westbound arbitraries to Toronto.

To Halifax from Toronto the present rate is \$1.94; and from Toronto to Montreal it is \$1.34; the arbitrary there is 60 cents. The arbitrary is 35 cents going west and 60 cents going east, and that reflects the extent of the application of the Maritime Freight Rates Act.

Now, just one other point I want to stress again. In so far as shipments are concerned to Winnipeg or to any point in western Canada on the class

basis, we find that there are these arbitraries from the Halifax group, first class over Montreal, 20 cents westbound and 44 cents east bound. In other words, from Halifax right straight through to Quebec City, we pay the same rate as Quebec City. That large group results from the application of the Maritime Freight Rates Act. In other words, that is the distance from Halifax to Diamond; it is around or about 800 miles for that particular group on class traffic going to western Canada.

Now, taking up the brief again at page 17, I read:

Whether or not this is the intention of the proposed amendment, this commission, on behalf of the maritimes, strongly urges that subsection 4 be so amended as to indicate clearly that the proposed equalization section is not to affect adversely, or result in inflating, the existing maritime rate structure. The inflation of the maritime rate structure, in the period between 1912 and 1924, was strongly deplored by several royal commissions, including the Royal Commission on Maritime Claims and the Royal Commission on dominion-provincial relations as set forth in the second part of this submission.

It is of interest to observe that the railways' proposed plan of equalization recently presented to the Board of Transport Commissioners assumes

'that within maritime territory the class rates will continue to be related to the Ontario-Quebec class rates, and as it is contemplated that the Ontario-Quebec rates will be extended to include Lake Superior territory, the main basis of this study is confined to the Ontario-Quebec and Prairie-Pacific rates'

and it would

'eliminate the Toronto and Montreal rate groups and the basing arbitraries east of the head of the lakes as well as the arbitraries over Montreal to and from points in the maritimes.'"

As Mr. Smith has pointed out, that is the only application that had been before the board for equalization; and it is only, as I understand it, their submission at this time, and as an approach to this whole question of equalization, it is not the final thing.

By Hon. Mr. Chevrier:

Q. May I say this: you are free, I take it, to submit a counter proposal which will meet the arguments you are making now to the board.—A. As I see it, after the passing of the Act we can submit a contra-proposal it is true, but we are up against this uniform basis, the national policy basis across the country, and that is where we are going to run into difficulties, keeping in mind each group.

Q. But the royal commission's report says that the recommendations which it makes and which are contained in this Act are to be read concurrently with P.C. 1487; so the board is therefore obligated to consider not only the equalization investigation which it will make, but also the legislation.—A. As I see it, there will be legislation; the last statement of the last Act, the last statement of policy.

MR. GREEN: How can an order in council vary the terms of a statute?

HON. MR. CHEVRIER: The order in council does not vary the terms of the statute; but it does vary the document under which equalization is being made.

MR. GREEN: The statute would certainly override it.

MR. BROOKS: What is the good of a statute if it can be overridden?

HON. MR. CHEVRIER: No. They are being read concurrently.

The CHAIRMAN: The statute is so wide in its wording:

... and such distances shall be expressed in blocks or groups and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls . . .

MR. GREEN: But under a uniform scale of mileage, you could not have different blocks in different parts of the country.

The CHAIRMAN: No. But the length of the block will depend on the length of the haul, will it not?

MR. GREEN: No!

The CHAIRMAN: Oh yes!

HON. MR. CHEVRIER: There is not only section 332-A which carries the intent of the recommendations of the commission, but there is also 323-B as well as other sections from which benefit will be derived to the east as well as to the west.

MR. GREEN: Your national freight rate policy is defined in section 332-A, and it also sets out the rate basis.

HON. MR. CHEVRIER: The point you are going back to is whether or not equalization is desirable. If it is agreed that equalization is desirable, I do not know any method other than that which is contained in the bill. Moreover, the royal commission did not know of any other method. Therefore, we have adopted that suggestion. I do not know how you are going to equalize, if you are going to protect this region, that group, this association, or some other group. There can be no equalization that way. And in any event the only equalization that is affected is, as Mr. Evans said the other day, about 50 per cent of the traffic.

MR. GREEN: The only protection the maritimes will have left will be the 20 per cent subsidy which is covered by the Maritime Freight Rates Act. Is that not right?

HON. MR. CHEVRIER: That is one thing. But what Mr. Matheson is concerned about is whether or not this preference will be protected, and he is making his submission to that effect. I have made my position clear in the House of Commons as to whether or not it will be, and I cannot add to what I have said.

By Mr. MacNaught:

Q. Mr. Matheson, I take it that you do not consider that subsection 4 of section 332-A is adequate protection?—A. That is right.

Q. You say you do not consider that it is adequate?—A. I do not consider that it is adequate, and as I see it, as I shall mention later on, I think the royal commission intended that we should be excluded and in fact they turned down the proposal of the Canadian Pacific to amend the Maritime Freight Rates Act in order to give effect to equalization.

By Hon. Mr. Chevrier:

Q. I am glad to hear you say that because I too think it was their intention.—A. But we are concerned that there will be some amendment which will assure us of that protection under the Act.

Q. We think you are fully protected in the Act, but I do not want to interrupt you further.

By Mr. Gillis:

Q. Before we leave that point, I would like to say I have read Bill 12 and I would like to ask the witness if he does not think that subsections 2 and 3 of the section under discussion, namely section 332-A, do not protect him against

the very thing he is asking for? He claims that equalization is brought about in the judgment of the commission and that the bill gives the commission the right so to decide.

Subsection 2 definitely states that the commission has the right to require any railway company to set up groups and blocks in order to establish the kind of rate that might be necessary to bring about some equalization. And then, later on in subsection 3, it gives protection by retaining the Maritime Freight Rates Act preferences. Do you not think as to subsection 2 of the section we are discussing, that all sections of the railways will be required to set up a kind of block structure that you might think would be desirable?—A. It will be, as we see it, a different kind of grouping basis than what we obtain at the present time and it would be the grouping basis that would apply right across from Saint John's, Newfoundland, to Victoria, British Columbia—a uniform basis, and I doubt very much if you would have an instance where you would have a group as we have at the present time with a distance almost up to Diamond of 666 miles.

There is just one point. I went through this royal commission report to see just exactly what kind of groups they had in mind when the railways' proposal came out with their maximum group of 25 miles. True, it is not the final answer so I find on page 111 of the royal commission report in connection with a recommendation in regard to groupings, the following statement:

No legislation is recommended on the subject of rate-grouping; but it is suggested that the situation which has led to the demand for larger rate-groups may be one which the board can deal with by the use of a uniform scale of rates involving distance grouping, including, in the case of very long hauls, large rate groups of 100 or even 200 miles in extent, in addition to the rate groups of 10, 20, 25, 40 or 50 miles which now exist for shorter distances.

Now, note "uniform scale of rates". This is the only instance I have found there and it appears to be the only information as to what thought might have been in the minds of the royal commission as to their grouping arrangements. It is found in the royal commission report.

By the Chairman:

Q. Would you please try to harmonize that with page 151 where the conclusions are summarized:

As has been stated by the board, the use of arbitraries in the system of rate-making is an integral part of the whole class rate structure.

How do you summarize those two statements?—A. This is the section which deals with arbitraries and then when we come over to the equalization section—

Q. Well, isn't it clear that the royal commission intended that arbitraries are still to be a part of our freight rate structure?—A. Mr. Chairman, from my interpretation of the royal commission report in relation to our structure, it is my interpretation that they wanted us to be excepted from any equalization plan that might be adverse to us.

Mr. ASHBOURNE: That is a very important point, Mr. Chairman, especially when you realize that Newfoundland is quite a distance from Halifax and the rates down there are going to affect us in that easterly extreme position.

By the Chairman:

Q. Isn't the material that you read from page 111 of the report directed at rate grouping?—A. Well, it is directed—

Q. Grouping within the area, within the region—that is the heading that is given, "rate grouping".—A. You see, what gave rise to this question of rate grouping was, I think, Alberta and some of the other western provinces were desirous of having larger rate groups in connection with their rate structure between Alberta and the east.

Q. That is my point.—A. And this was the recommendation of the royal commission in regard to groupings, but it is tied up, as you will notice, to the uniform scale of rates.

Q. Yes.—A. And the farthest they go here is not over 100 or 200 miles.

Q. That is, within the individual region, within a given region.

Mr. GREEN: Where does it say that in the report?

By the Chairman:

Q. But when he deals with arbitraries as he does on page 151, I think the commissioner is quite clear in what he intends.—A. Well, my answer to that, sir, is this, that there is a conflict there in connection with this particular section of 151 in relation to the equalization, recommendations as to the blocking and uniformity and also in my opinion to page 111.

Q. But we have legislation on that, have we not?—A. Well, Mr. Chairman, as I see the legislation and as I read it—

Q. You are fearful?—A. We are fearful, right; and we are fearful it will be adverse and if we can be excluded in any way that we will not be adversely affected that is the answer.

By Mr. Mutch:

Q. If you succeed, what shall we call it then instead of equalization? Somebody must be going to get more and somebody less or there is no purpose in equalization. It is a perfectly understandable and laudable approach which a little later on I shall take with respect to my own region which is adversely affected by some of the things in this bill. But it seems to me that there is no levelling process possible whereby some people do not go up and others down and if we in this committee do not look at this thing from something approaching the national concept, who will?—A. Well, if it is going to affect our whole freight rate structure adversely, as the Maritimes Transportation Commission representing the four provinces we cannot go along with it in that respect.

By Hon. Mr. Chevrier:

Q. You cannot say that until the equalization is completed.—A. That is correct; in other words, we are fearful under it at the present time, sir. All we see at present is the legislation. Now, there may be something flow from this equalization that in some few instances may be of benefit.

Mr. MUTCH: That is what we are looking for.

By Mr. Ashbourne:

Q. Mr. Chairman, as I see it, we feel that it would be advisable to have something there which would safeguard our existing rates; is that right, Mr. Matheson?—A. That is the interpretation.

Mr. MUTCH: On its present basis it is something that would safeguard any approach to equalization. Equalization cannot be down for everybody. I am not arguing for the moment that the rate should be raised in the maritimes; I hope we will find out while we are here, but one cannot give lip service to equalization and then suggest that everyone who does not benefit from equalization should not be for it.

Mr. ASHBOURNE: Well, don't we first want to know that equalization is going to be a good thing?

Hon. Mr. CHEVRIER: The royal commission said it would be a good thing. The provinces, I think, asked for it and the royal commission recommended it and this legislation is putting it into effect.

Mr. RILEY: Subject to certain exceptions?

Hon. Mr. CHEVRIER: That is right—subject to certain exceptions.

The WITNESS: Mr. Chairman, on that particular point, when we appeared before the royal commission the four provinces and our commission took a strong stand against equalization as we saw it in so far as our rate structure at that time was concerned. We had seen the situation and what it had meant. Was it true equalization which was impossible, of course, or was it just a partial equalization?

I understand, of course, that there was a statement when the provinces appeared before the cabinet in connection with equalization—a general statement. Unfortunately, at that particular time—I do not know if I should say unfortunately or otherwise—I was not able to be up here during the particular session and I do not know exactly what happened, but in the subsequent appeal to the cabinet in the 21 per cent case pursuant to the conferences of the provinces there was drafted this section dealing with equalization in the petition—the part reads as follows:

Equalization of rates between western Canada and eastern Canada (Ontario and Quebec)—

That was the agreement at that time—as between the counsel for the various provinces and that was the way that this was drafted. We are not opposed to equalization from Ontario and Quebec vis-a-vis the western provinces at all, and they realized the situation at the time and that is the way that this particular statement dated September 27, 1948, to His Excellency the Governor General in Council was worded, and that is the way it was put and agreed upon at our session prior to the preparation and submission of this particular brief. It is my belief, Mr. Chairman and honorable sir and members of the committee, that that is the position as of today in so far as our relations with the provinces are concerned.

By Hon. Mr. Chevrier:

Q. Anyone listening to that brief at the time could not come to any other conclusion but that all the provinces were in favour of equalization. It is certainly the conclusion I came to when I listened to it.—A. There was the economic aspect put to it and unfortunately I think that economic aspect got mixed up with the rate aspect.

By Mr. Green:

Q. Mr. Matheson, is your stand correctly set out at page 124 of the report of the royal commission where we find the first statements:

The maritime provinces said that they did not “subscribe to or support so-called equalization of freight rates” and stated “rate equalization is impossible of achievement.”

A. That was our stand, sir, but I might qualify in regard to that and I refer to it later on in this brief.

By Hon. Mr. Chevrier:

Q. Might I ask a question following up on that? That was in connection with the application for an amendment made by the Canadian National Railways and on that particular point the maritime provinces took the position as set out in this paragraph on page 124?—A. Yes, that is the position that we have taken generally, honourable sir. As a matter of fact, you see we also asked at that time, keeping in mind the story I have been talking about, about the arbitraries and our grouping, we stressed before the royal commission that the arbitraries should be maintained.

We also stressed before the Board of Transport Commissioners the same thing. However, both the royal commission and the Board did not accede to the maintenance of the arbitraries against rate increases.

By Mr. Gillis:

Q. Would you care to suggest an amendment, Mr. Matheson, that might fully protect you?—A. Mr. Chairman and Mr. Gillis, we are at the present time giving some thought—Mr. Smith and myself—to this thing and we have not yet finalized what we consider a suitable draft.

By the Chairman:

Q. Well, if without any legislative authority the Board of Transport Commissioners over the years through a series of decisions gave you certain—shall we call them—common law rights, have you any reason to believe that the same Board of Transport Commissioners will not follow the same practice in the future when there is no legislative authority directing them to change it?

Mr. F. D. SMITH, K.C. (Counsel for the Maritimes Transportation Commission and appearing on behalf of the four maritime provinces): Might I answer that, sir? Our fear, if I may put it so, Mr. Chairman, is that there is a declaration of policy. Now, either that policy means something or it means nothing, and if it means what we think it does—and I do submit as a lawyer of some experience that it is clearly susceptible of that interpretation—there is, in my opinion, as I think, to use an expression of the honourable the minister, a directive to the board to put into effect a policy. Now, what is that policy?

The policy is, as I understand it, that there be uniform systems of freight rates in Canada:

(1) It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description, and carried on or upon the like kind of cars or conveyances, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

And now, Mr. Chairman, as I see it that is a general directive; and then, it is true, the next subsection is permissive, the word “may” be used; and it provides that “the board may with a view to implementing the national freight rates policy, require any railway company”. And now, that is an over-riding obligation, as I see it, to bind the board to effect a national freight rates policy. And now, what are they to do? They are:

(a) to establish a uniform scale of mileage class rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;

And that bears out, I do submit, the passage on page 111 of the report. And, similarly they are “to establish for each article or group of articles for which mileage commodity rates are specified, a uniform scale of mileage commodity rates applicable on its system in Canada, such rates to be expressed in blocks or groups, the blocks or groups to include relatively greater distances for the longer than for the shorter hauls;

It is true there is a following paragraph, “to revise any other rates charged by the company”. And now, I do not know how far we are going to be hurt, but I cannot for the life of me see anything but that our position will be prejudicially affected. And now, I do realize that this is a permissive section; but what I do

say, and perhaps I put it very badly, is that here you have a declaration of policy and Mr. Justice Kearney, the chairman of the board, would have to follow that declaration of policy; and as I see it, the words there are a clear directive to abolish all the statutory rates and all the arbitraries, and the abolition of the system of groupings such as we have; which is not the system of grouping which, I do submit, the Royal Commission had in mind. And now, if there is any doubt about that situation I suggest for the economy of the four provinces which I represent that should be put beyond peradventure; and it is not, perhaps I should not say it, but it is not good enough for us to be told that the board will look after you. I do submit, Mr. Chairman, that the authority and jurisdiction of the board is so circumscribed and limited by this declaration of policy that we will have to have something in there for our protection.

MR. MUTCH: Might I ask a question there, Mr. Chairman? Does the witness fear then that Bill 12 removes the possibilities of arbitraries, to begin with?

MR. SMITH: I do not.

MR. MUTCH: Does it remove the possibility of arbitraries; do you think it is precluded from using them by this bill?

MR. SMITH: I would suggest that it is susceptible of that interpretation; and in so far as our own particular object is concerned I say I cannot spell out any other interpretation.

MR. MUTCH: Well then, what about section (b) to clause 329:

(b) may, in addition, specify class rates between specified points on the railway which rates may be higher or lower than the rates specified under paragraph (a)?

MR. SMITH: Those are point to point rates, I take it. They are not arbitraries but point to point rates, rather than schedule "A" rates.

MR. MUTCH: Isn't that protection enough?

MR. SMITH: I do not think so. Those are point to point rates, not what is known as arbitraries.

MR. MUTCH: It seems to me that they are designed to accomplish the same thing. As I see it there is the possibility under that section of taking care of your situation.

MR. SMITH: I do not pretend to be an expert on rates.

MR. MUTCH: Neither am I.

MR. SMITH: Nor on tariffs either; but I do suggest, Mr. Chairman, that the board would find it very difficult to retain us in the same position as we were before.

THE CHAIRMAN: You do not think that "exceptions", in (4) would be of any use to you?

MR. SMITH: I think, Mr. Chairman, that is all covered by the national policy, that everything must be read with the over-riding provision in section 332 (a) for a national freight rates policy which provides for a uniform system. I think these other sections are in there because where the board thinks an exception should be made from the operation of the section it would be quite limited in its application by reason of the over-riding policy declared in the Act. But I am afraid that is not sufficient to cover us.

THE CHAIRMAN: You would think that in order to take care of your situation there you should have another subsection under (4)?

MR. SMITH: Including—

THE CHAIRMAN: —Arbitrariness, in the four eastern provinces.

MR. SMITH: Well, I will put it, excluding the rate subject to the Maritime Freight Rates Act.

The CHAIRMAN: You have already got that.

Mr. SMITH: No,—subject to the Maritime Freight Rates Act—excluding from the application all rates which are subject to the Maritime Freight Rates Act and also excluding east bound rates because the Maritime Freight Rates Act is based on the east, bound rate schedule less 20 per cent. But I could, if I were allowed, draft an amendment and submit it to you for consideration.

Mr. MUTCH: Do not the representations which the witness has just made really amount to this, that what the witness is calling for is an amendment to clause 4 which will ensure that the amendment declaring the national freight rate policy shall not be applied contrary to the interest of the four provinces which he represents? I think what he is concerned about is the application by the board of this so called national policy. If there is any better explanation of it than that I should like to have it.

Mr. MACNAUGHT: That was the intention of the legislation.

The CHAIRMAN: The other members cannot hear this conversation, gentlemen; would you please speak a little louder?

Mr. MACNAUGHT: I said, Mr. Chairman, it appears to me that that was expressed in the legislation, the order in council setting up the commission said so.

Hon. Mr. CHEVRIER: No, it did not; the order in council setting up the commission said that there should be a saving on the Maritime Freight Rates Act.

Mr. MACNAUGHT: That is right.

Hon. Mr. CHEVRIER: What these two gentlemen are seeking goes far beyond that. I do not think there is any doubt about that.

Mr. MUTCH: They want to have it excluded in their case.

Hon. Mr. CHEVRIER: I think they are satisfied that this legislation protects the Maritime Freight Rates Act. Perhaps they would like to have it made stronger, put in stronger language. They want protection for arbitraries and for rate groupings, which is an entirely different picture; and if that is going to be the basis, then I do not know how you can equalize rates.

Mr. SMITH: I do suggest, Mr. Chairman, that the advocates of equalization of rates—

Mr. GREEN: Would you mind speaking up a little louder, please?

Mr. SMITH: I was saying, Mr. Chairman, the emphasis on the equalization of rates is in the western provinces and has been for some time, and I suggest that those advocates have no serious objection to the position which we have endeavoured to support. And now, if they are the people wanting equalization and are getting equalization and are content with the situation, I cannot see who is getting gored.

Hon. Mr. CHEVRIER: Well, of course, we will have to see that from what they say when they come here. I doubt if they will go as far, but perhaps they will.

Mr. MUTCH: If they do, and conceivably they might, it boils down to this, that what we are considering is not an equalization problem but setting up some more regions enjoying some more advantages within their own areas. Perhaps that is what we ought to have.

Mr. CHAIRMAN: Mr. Smith, are you finished?

Mr. SMITH: I am finished, Mr. Chairman. Perhaps I have taken too long?

Hon. Mr. CHEVRIER: No, you have made it quite clear.

The WITNESS: I was referring, when I digressed, to the railways proposal.

Mr. GREEN: What page?

The WITNESS: Page 18. I quoted from their submission to the Board of Transport Commissioners.

Whether or not this is the intention of the proposed amendment, this Commission, on behalf of the Maritimes, strongly urges that subsection 4 be so amended as to indicate clearly that the proposed equalization section is not to affect adversely, or result in inflating, the existing Maritime rate structure. The inflation of the Maritime rate structure, in the period between 1912 and 1924, was strongly deplored by several Royal Commissions, including the Royal Commission on Maritime Claims and the Royal Commission on Dominion-Provincial Relations as set forth in the second part of this submission.

It is of interest to observe that the railways' proposed plan of equalization recently presented to the Board of Transport Commissioners assumes

that within Maritime territory the class rates will continue to be related to the Ontario-Quebec class rates, and as it is contemplated that the Ontario-Quebec rates will be extended to include Lake Superior Territory, the main basis of this study is confined to the Ontario-Quebec and Prairie-Pacific rates

and it would

eliminate the Toronto and Montreal rate groups and the basing arbitraries east of the Head of the Lakes as well as the arbitraries over Montreal to and from points in the Maritimes.

On this basis the only application of the Maritime Freight Rates Act, as interpreted by the railways, would be to the extent of the 20 per cent reduction of the railways' proposed uniform class rates within the maritimes, and 20 per cent of the preferred area proportion of the rates from the maritimes to points outside the "select territory". It follows that any proposed uniform commodity rate plan would be similarly treated.

Order in council P.C. 1487 of April 7, 1948, which instructed the board to proceed towards equalization of freight rates, contains the following last paragraph:

The committee, accordingly, advise that the Board of Transport Commissioners for Canada be directed to undertake a general freight rates investigation along the lines indicated in the preceding paragraph subject to such special statutory provisions as affect freight rates.

Particular reference was made in the discussion of the royal commission to that part of order in council P.C. 1487 which subjected the general freight rates investigation to "such special statutory provisions as affect freight rates." Attention has already been drawn in the second part of this submission to the conclusion reached by the royal commission respecting these statutory exceptions. This conclusion justifies repetition:

Under these circumstances it is best to leave matters as they stand and no recommendation by this Commission appears to be called for.

It is important also to emphasize again that the royal commission in reaching this decision disposed of an amendment proposed by the Canadian Pacific Railway Company to Section 3, subsection (2) (c), of the Maritime Freight Rates Act which would have given the board the power to adjust or vary tolls under the Act as may, in its opinion, be necessary to give effect to any general readjustment of rates in Canada.

(b) *Maritimes Opposed to So-called Rate Equalization*

This commission, in its argument before the Royal Commission on Transportation, said as follows:

This commission has not advanced nor does it subscribe to or support any proposal of so-called equalization of freight rates. It is the belief

of this commission that so-called rate equalization is impossible of achievement. Proposed equalization is particularly objectionable to this commission, inasmuch as it would set in operation the same process which took place in connection with the maritime freight rate structure between 1912 and 1925. . .

The position as taken by this commission on the equalization question before the royal commission had reference principally to complete or true equalization which, in that sense, is impossible of attainment (even without statutory exemptions). In other words, equalization, as applied to freight rates, connotes the same basis of class and commodity rates throughout Canada, regardless of national, legislative, constitutional or traffic conditions that may obtain. This commission believes that it is possible, however, to achieve partial equalization in Canada without including the rate structure governed by, and directly related to, the Maritime Freight Rates Act. In the case of such partial equalization excluding the maritime rate structure there may be required some modifications to bring the inter-territorial maritime freight rates into conformity with some of the provisions of the Railway Act where not inconsistent with the Maritime Freight Rates Act.

It is important at this point to direct attention to several of the findings of the Royal Commission on Transportation.

At pages 125-6 the royal commission said as follows:

The objective of equalization is something which can only be attained after considerable study by the Board and by the railways. Undoubtedly many serious problems are involved, for example the effect that the proposals may have on railway revenues, on established industries and on trade and market patterns. All of these things are matters of the utmost importance. Having regard to the large number of rate changes which will be involved, the problem is one peculiarly for the Board to resolve finally after the general freight rates investigation and after all parties who may be affected by the proposals have had an opportunity of being heard.

As already mentioned the royal commission on referring to the group and arbitrary structure of the maritime provinces said at page 151:

As has been stated by the board, the use of arbitraries in the system of rate-making is an integral part of the whole class rate structure.

And Commissioner Dr. H. A. Innis at page 307 of the report made this significant observation:

No scheme of equalization can be devised which will overcome the effects of competition in the St. Lawrence region as reflected particularly in competitive rate. An obsession with equalization will obscure the handicaps of the maritimes and of western Canada and perpetuate their paralyzing effects.

Nowhere is there a recommendation of the royal commission that the Maritime Freight Rates Act be superseded for the sake of so-called rate equalization. Rather, as above indicated, the royal commission in dealing with the amendment to the Act as proposed by the Canadian Pacific Railway Company has taken the contrary position, and has observed further that the Maritime Freight Rates Act is

...not concerned with granting equality in treatment between the select area and the rest of the country.*

The railways' equalization proposal, or any uniform class rate structure scheme, will result in the scrapping of the existing group and arbitrary system inherent in the existing maritime rate structure between the maritimes and other parts of Canada. Examples of the substantial increases that will flow from the railways' recent proposal respecting equalized class rates are contained in statements attached to this submission.

As I mentioned already this is not the final basis that will possibly flow from the general freight rate investigation. In any event it is a proposal which has been put before the board. Now, just let us take for example between Halifax and Toronto...

Mr. GREEN: It that in your appendix?

The WITNESS: Yes, it is in there, it is about 15 pages from the last sheet. From Toronto to representative points in the maritimes.

Mr. GREEN: Oh yes, I have it here.

The WITNESS: On page 2. I have been using Halifax as an illustration. The present rate from Toronto, first class, to Halifax is \$1.94. The proposed rate of the railways in their pro tem equalization plan would result in a rate from Toronto to Halifax of \$4.23.

Mr. JOHNSTON: Whereabouts are you speaking from?

The WITNESS: Page 2.

Hon. Mr. CHEVRIER: Do you think, Mr. Smith, that this is a proper thing to do at this time? We have been pretty fair to the witness.

Mr. SMITH: Mr. Chevrier, I quite appreciate your point. If the chairman considers that this matter is sub judice, if the Board of Transport Commissioners are to be considered a court of record, perhaps it is not quite proper, without permission, to refer to matters which are pending before that court. I did think, however, that possibly Mr. Matheson could point up his argument by just referring to one or two instances just to indicate to the committee the possibilities that there would be in an increase in the freight rates structure of the maritimes, but I am entirely in the hands of the chairman. Might I say that it is true that the board is a court of record and perhaps the rule applies about referring to matters that are sub judice—prejudicing matters under litigation.

In so far as this board is concerned this is a study that has been filed with the board. It is known all over Canada, and the press have given it all the publicity they can. I really do not think that either the railways or the country or the freight payers would be prejudiced by disclosing information of this kind, but I am entirely in your hands.

Hon. Mr. CHEVRIER: The reason I objected to this question is not because of that. While that is a good reason, and the chairman can decide after consultation with the committee, the reason that I think it is not a proper thing to do is this. I see no difference between that and a court for instance hearing one side of a lawsuit and not hearing the other—for instance, a writ being issued for \$10,000 and the court adjourning after hearing the plaintiff's case but not hearing the defendant's case.

* Former Chief Justice Duff of the Supreme Court of Canada in the so-called Interpretation case respecting the Maritime Freight Rates Act in the judgment of the court said in part as follows: "The board's duty in applying the enactments... is to give form and substance to the intent of the Act as expressed in s.s. 7 and 8, which we repeat exclude in explicit language the two principles expounded by the chief commissioner, that of the reasonableness of rates in itself and that of "uniformity" of rates as between different localities."—41 C.R.C. p. 56 and p. 73.

Your case has not been heard and I do not think that this committee should be given a plan which the railways have no hope of ever getting approved by the Board of Transport Commissioners—and which I hope they will never get approved, because that certainly was putting the best foot forward.

Mr. SMITH: Or the worst foot forward.

Hon. Mr. CHEVRIER: Or the worst foot forward. So that when this is suggested as what is going to be done by equalization—

Mr. SMITH: I do not think Mr. Matheson went that far.

Hon. Mr. CHEVRIER: No, I am not suggesting that he has, but I do say to you that you have been presenting your case very fairly today and I hope that it can continue along those lines.

Mr. SMITH: As my friend Mr. Evans says: "I want to be fair."

The CHAIRMAN: Well, the chairman also wants to be fair and my ruling would be inclined to be to give any figure which the witness considers is a correct figure, and one which he would accept. If you, Mr. Matheson feel that these figures you are now going to refer to are ones you would accept in arguments before the Board of Transport Commissioners as your own figures, I would take them. If they are not then I think they should not be given.

Mr. GREEN: Mr. Chairman, on that point of order. As I understand it the position is that the railways have filed a plan of equalization. It is a plan of equalization as called for, following up the order in council which directed a general freight rate inquiry.

Now, surely, there is nothing wrong in referring to the figures given in this plan of equalization because it will show very clearly the interpretation that the railways place on an equalization plan. I mean it shows what effect they think will follow. It is not a matter of whether these figures are fair or not, or whether they are decided not to be fair, because here is a general equalization plan and I do not see how it can be considered beyond the power of this committee to deal with that plan which has been submitted.

The CHAIRMAN: You see, Mr. Green—

Mr. GREEN: They have set out a tentative plan.

The CHAIRMAN: Two points have been raised: the one point is that it is not proper—that while a certain matter is under review by a court of record we should sit in judgment on evidence that is given to that court. The other point raised is that the witness says he wants to use those figure to substantiate and to elaborate his argument.

I say very well, under the circumstances, if you feel you have to use some figures to elaborate your argument only use figures that you believe are correct—and not any extravagant figures a litigant would advance—just ones you think are correct.

Mr. GREEN: But that is the identical question of order that was raised in the House and his honour, Mr. Speaker, ruled against the minister and that those figures should be given. You will find them in *Hansard*.

Hon. Mr. CHEVRIER: No, he did not rule against the minister. I objected and simply asked a question of Mr. Nowlan—I do not know whether he is here today—whether he should proceed and put on *Hansard* these matters which were already sub judice. Other members did and the Speaker did not object.

Mr. GREEN: The point was raised again when Mr. Higgins of St. John was mentioning figures and was allowed to put them on the record. Surely a ruling by the Speaker on this very point should govern this committee.

The CHAIRMAN: I am not ruling at all on the first point, Mr. Green, but I have that in mind. I say the committee would only be needlessly misled if

extravagant and distorted figures are cited to us, and I am asking the witness to confine himself to figures which he believes are substantially correct. Now, is there anything wrong with that?

Mr. GREEN: Yes, I think so, because the House was just as much in danger of being misled as this committee, in fact a great deal more—because we have a chance here to cross-examine the witness and make him explain just how the figures apply and in what way he is using them.

The same arguments could have been made then and the Speaker ruled it was in order to give these figures. Now, why should we have a different ruling here.

The CHAIRMAN: I have found that up to date Mr. Smith has been very, very fair, and very lucid in his presentation to this committee but I am going to put it at his doorstep where I think it belongs.

Mr. SMITH: I think that is perhaps very kind of you, sir, but I do not want to be placed in an invidious position.

The CHAIRMAN: Should you not only use figures which you believe to be reasonably accurate to advance any of your arguments?

Mr. SMITH: Well, I do not know—am I a witness or am I making a presentation as an advocate? Sometimes in fact often, I have seen people who were both advocates and witnesses. I will try to be an advocate in this case.

The CHAIRMAN: You are here to try to help this committee arrive at a conclusion. Now, if you use distorted figures—

Mr. SMITH: Well the gravamen of the charge against this bill, if I may put it that way, is a very real possibility of the board considering they are bound by the declaration of policy in this Act and, are therefore, going to abolish what we consider is dear to us.

There has been presented a study by the railways showing—the railways were asked to make the study—certain figures, and what Mr. Matheson was doing was merely using some of those figures to point up that there is a possibility of the rate structure being greatly increased in the maritimes. I do not think he is tying himself down to those identical figures or anything of that kind but I think it would be fair at least that he say to this committee that the railways have submitted something which would involve an increase in the rates—and adversely affect the rate structure.

Mr. MUTCH: May I ask a question?

The CHAIRMAN: If I may—Mr. Mutch. You know yourself that litigant in a motor car accident expecting to recover \$5,000 will sue for \$20,000 damages.

Mr. SMITH: I quite appreciate that; in fact, I have done it myself.

The CHAIRMAN: Yes, well would it not be fair then to this committee, and would your presentation not carry a great deal more weight if you quoted figures which you know to be reasonably accurate?

Mr. SMITH: Well, we do not know—that is the very point.

The CHAIRMAN: Well, I give you credit for more than that.

Mr. SMITH: I do not think we can tie ourselves down to figures, but I do not think, speaking candidly for the clients I represent, that I cannot accept the railway figures as being accurate. I must say that frankly.

The CHAIRMAN: Then it would be much more helpful to the committee if you would cite figures which you believe to be correct?

Mr. SMITH: I do not know whether that is possible for us because we have not the equalization study that was made—the waybill study. Perhaps Mr. Matheson—

Hon. Mr. CHEVRIER: You intend to present to the board a counter proposal to that of the railway, which will show considerably lower figures?

Mr. SMITH: I hope so.

Hon. Mr. CHEVRIER: You know that?

Mr. SMITH: We would not go there unless we could.

The CHAIRMAN: Carry on, Mr. Matheson?

The WITNESS: Perhaps I can add a word. Frankly, I would not accept the railway figures because I do not think they are in line with the royal commission findings. I have already referred to where the Royal Commission suggested maximum groupings of 100 and 200 miles. The maximum railway groupings as proposed are only 25 miles. What I would suggest is that I leave a statement of what the resulting effect would be with what is known as Schedule A distributing rates of Ontario and Quebec, as extended to the maritime provinces, I have already discussed this and I think those figures I have used—reflect what a mileage basis would do to our groupings although, even with these figures, I want to be fair that there could result larger groups in connection with equalization. Even though the maximum mileage is only 40 miles, that again does not compare with the figures of the recommendation, as I see it, in the royal commission's report. But I will say this: that, generally speaking to the extent that it will affect and scrap our rate groupings and put them strictly on a uniform mileage basis, the tendency will be to augment our rate structure within the maritime area. Therefore, without quoting any further figures I shall proceed with the brief.

Generally, some of the proposed rates will be approximately twice the existing rates, and about three times the rates as on April 7, 1948, when the General Freight Rates Investigation was ordered.

I refer, of course, to the railway basis.

The proposed inflation of the Maritime freight rate structure, particularly on long haul traffic to regions outside the "Select Territory" (including traffic between the mainland and Newfoundland) can hardly be instituted in consonance with the "guides" contained in the preamble of the Maritime Freight Rates Act on which the Royal Commission on Transportation placed considerable weight. Then, too, it must be borne in mind in relation to any proposed inflation of the Maritime rate structure that the competitive transportation situation in the central provinces had had the effect of lessening the advantages provided by the Maritime Freight Rates Act.

The railways' plan of rate equalization contemplates that should the uniform structure fail to maintain the revenue position of the Canadian Pacific Railway Company as the yardstick "the result may be to require readjustment of the level in a further revenue case." This means that if the existing Maritime rate structure could be embodied in any equalization plan, further increases in the scale would be possible in the interest of so-called freight rate equalization. Even if the Maritime rate structure is excluded, it would be vulnerable to increases if railway revenues fail to meet costs of operation. The same would hold true for any modified plan.

That is to say, under section 32-B of the Maritime Freight Rates Act, if the revenue position of the railways is insufficient, then under that particular section they could obtain an increase to make up for any loss which might result from an equalization plan.

Great damage to the Maritime economy can be anticipated if the plan outlined in the railways' proposal, or in a modified form, were effected. The uniform rate plan is based strictly on mileage. It would completely ignore the various important conditions that apply to the Maritime structure, and on which many Maritime industries have been developed.

In the Maritimes, most markets are far removed from the source of the commodity being marketed. Consequently, the freight rate structure was originally designed, although disturbed to the injury of the Maritimes before

the passing of the Maritime Freight Rates Act, to afford persons and industries in this territory the larger market of the whole Canadian people. That is to say, the rate structure was originally tailored to the marketing needs of various commodities—be it lumber, coal, steel, potatoes, apples or fish. What is more, and not an insignificant factor to consider by any means, is that any adverse disruption in the Maritime structure, indeed in any other part of Canada, would undoubtedly force a greater volume of traffic to competitive means of transport, and already the competitive position of the Maritimes has been worsened by such diversions. Therefore, to the extent railway revenues will suffer by such diversions there will result further demands for revenue increases on traffic outside the pale of competitive influences. This would adversely affect long haul traffic, and particularly basic and primary commodities dependent upon long rail hauls to outside markets.

It is therefore respectfully urged that Section 332A be so amended that it will leave no doubt whatsoever that the Maritime freight rate structure will not be adversely affected by any equalization plan that may be authorized.

At this point, Mr. Smith reminds me that we propose to prepare some charts setting forth our freight rate structure as extended to various points throughout Canada and also applying thereto various scales which would be based strictly on mileage, and also with various blocks, to show the effect of disruption of the groupings in so far as the maritime area is concerned.

Now, that concludes Bill 12. Would it be in order for us to file that material with you? I shall have to get busy on it. It will take us a few days to get those charts in shape.

The CHAIRMAN: Whatever time, within reason, you require would be quite all right, Mr. Matheson.

The WITNESS: Now, as to the other two bills, Bill 6 and Bill 7.

This commission has repeatedly advocated the strengthening of the Canadian National-Canadian Pacific Act 1933. The proposed amendment in Bill 6 apparently has as its object a greater surveillance than at present over the requirements of the Act. This commission is in agreement with the proposed amendment.

The proposed amendment to subsection 1 of section 4 of the Maritime Freight Rates Act was recommended by this commission to the Royal Commission on Transportation. Consequently no comment is necessary as the purpose of the change is fully covered in the explanatory note.

As to the repeal of section 6, this commission has no objection to this proposal provided the repeal of this section will not derogate from the application of the Act in any manner whatsoever.

The CHAIRMAN: Mr. Matheson and Mr. Smith, I believe it would be the wish of the committee that I should thank you both for the care you have taken in preparing your argument and for your very helpful presentation to this committee.

The WITNESS: We thank you.

The CHAIRMAN: Now, it is twenty minutes to six. Would you, Mr. Evans, believe that 20 minutes would cover the tabling of those questions you have?

Mr. EVANS (Vice-President of the C.P.R.): Oh, yes, I can table them well within that time.

The CHAIRMAN: Shall we hear then from Mr. Evans now?

Agreed.

F. C. S. Evans, K.C., Vice-President, Canadian Pacific Railway, recalled:

The WITNESS: Mr. Chairman, on page 42 of the transcript Mr. Johnston asked for an example of the rates on canned goods from Calgary to the maritimes and from the maritimes to Calgary and I produce, with copies for the members of the committee, a table entitled, "Rates on Canned Goods, Carloads, All Rail."

CANADIAN PACIFIC RAILWAY

RATES ON CANNED GOODS, CARLOADS

ALL RAIL

(Question by Mr. Johnston, Page 42)

From	To	Rate	Minimum Weight	Tariff Authority
		\$		
Calgary, Alta.....	Halifax, N.S.....	3.45	24,000 lbs.	5th Class—C.F.A. 4-F
Halifax, N.S.....	Calgary, Alta.....	3.32	24,000 lbs.	5th Class—C.F.A. 4-F
Calgary, Alta.....	Halifax, N.S.....	3.16	70,000 lbs.	<i>Vancouver Combination</i> Calgary to Vancouver— \$1.40 5th Class W.160-E Vancouver to Halifax— \$1.76 C.F.A.—101-H Total \$3.16
Halifax, N.S.....	Calgary, Alta.....	3.10	70,000 lbs.	<i>Vancouver Combination</i> Halifax to Vancouver— \$1.70 C.F.A.—1-K Vancouver to Calgary— \$1.40 W.160-E Total \$3.10

Montreal, Que.,
November 9, 1951.

Now then, I want to explain that in the two latter items you will see there the "Vancouver Combination". These are rates on canned goods between Calgary and Halifax and there is a rate shown under the heading "Vancouver Combination".

By Mr. Johnston:

Q. What page in the report is that?—A. The question was asked on page 42. Now, I just want to say this about the combination. There have been suggestions which make it necessary for me to explain to you that because the rate is combined on Vancouver it does not mean that the traffic moves, say, eastbound from Calgary out to Vancouver and back, or vice versa. Now, the "Vancouver Combination" merely means that the traffic does not move that way but where the rates combined on Vancouver would be lower, then they apply the Vancouver combination.

Then, I also want to point out for the record that the differences between the eastbound and westbound rates are entirely due to the maritime provinces on the westbound movement.

Then, on page 44 the chairman asked for figures showing the volume of the transcontinental traffic involved. Now, we have had considerable difficulty with this because the board's waybill study does not show the traffic moving at transcontinental rates as distinct from traffic moving at other rates.

Accordingly, in order to be of assistance to the committee, we had recourse to cards supplied by the board to us, showing the traffic destined to points on the Canadian Pacific lines. From these cards we developed the statement which you have before you entitled, "Carload all rail traffic from eastern Canada to prairie territory and to Pacific territory—based on 4 days of board's waybill study—year 1949".

CANADIAN PACIFIC RAILWAY

CARLOAD ALL RAIL TRAFFIC FROM EASTERN CANADA TO PRAIRIE TERRITORY AND TO PACIFIC TERRITORY—BASED ON 4 DAYS OF BOARD'S WAYBILL STUDY — YEAR 1949

(Questions by Chairman and Hon. Mr. Chevrier, Page 44)

	FROM EASTERN CANADA				
	To Prairie Territory (Manitoba, Saskatchewan and Alberta)		To Pacific Territory (British Columbia)		Total
	4 Days	Estimated Full Year	4 Days	Estimated Full Year	Estimated Full Year
	\$ cts.	\$	\$ cts.	\$	\$
At Competitive Rates.....	3,399 56	224,997	20,644 87	1,548,365	1,773,362
At Normal Rates.....	206,685 93	15,501,445	64,337 12	4,825,284	20,326,729
TOTAL.....	210,085 49	15,726,442	84,981 99	6,373,649	22,100,091

Montreal, Que.,
November 12, 1951.

Now, this statement, if you have it before you, shows that for the four days covered by the board's study there was carload traffic from which Canadian Pacific derived revenue of \$20,644.87 destined to Pacific territory at competitive rates. You will see that in the third column "To Pacific Territory"—four days, \$20,644.87.

It also shows that there was carload traffic for those four days destined to prairie territory at normal rates. You see, the second line has the normal rates amounting to \$206,685 odd.

Then, if you take the four days as typical and assume 300 working days, you can multiply the four days' table by 75 and get an approximation of the year's traffic.

On that basis it would appear that the traffic moving westbound to prairie territory from eastern Canada produced revenue of approximately \$15,500,000. You will see that in the second column, "Estimated Full Year at Normal Rates."

Q. That four days—was that four days taken at random?—A. They took one day out of each three-month season in order to get the fluctuations in traffic with the seasons and that means that they took every waybill that moved traffic on all the railways in Canada—that is, intra-Canadian traffic—and examined it and found what rate it moved on, and what tariff, and where it moved to, and the amount of money involved and the weight.

Now then, you will see also that if you apply that same idea to the traffic moving on competitive rates to the Pacific territory you get a total estimate for the year of \$1,548,365. That appears in the fourth column on the first line.

Now, the conclusion that can be drawn from these figures—and this is what I think the chairman wanted when he asked me the question—is that if the prairie territory intermediate to the Pacific coast should get the benefit of the one-third basis proposed under section 332B of the bill, the \$15,500,000, all the traffic shown in the second column on the the second line is exposed in greater or lesser degree to being affected by the bill; that amount of traffic is exposed in order to allow the railways to protect the \$1,500,000 of traffic moving at competitive rates to Pacific territory. That is in fact the best I can do.

Q. How much would it be exposed? Would it be reduced by half?—A. I would like to be able to help you but I cannot. All I can say is that some of that traffic moves shorter distances and some longer distances.

Q. Would you care to estimate it at today's competitive rates?—A. I tried to get our traffic people to do so and they could not.

By the Chairman:

Q. Have you taken off an estimate as to what loss in revenue there would be with respect to this whole year's traffic to a midway point which totals \$15 million odd in a year? Now, that is your total revenue?—A. Yes.

Q. All right, with the application of the one-third ceiling over the trans-continental rate what resulting loss of revenue would there be?—A. I cannot give it to you. I would like to be able to but I cannot. That is the best thing I can do. I can tell you that there will be more or less degree of effect on that \$15,500,000 of traffic westbound—in order for the railways to be able to protect \$1,500,000 of Pacific traffic moving to Pacific territory.

By Mr. Green:

Q. The inference is that it may not be worthwhile maintaining the rate in order to protect that traffic to the coast?—A. That is a statement I made to you the other day.

By the Chairman:

Q. The only loss that you could take would be a fractional loss of this \$15 million?—A. It would be a fractional loss.

Q. And you do not know what the fraction would be?—A. I do not know what it would be.

By Mr. Low:

Q. Let us have this very definite: No action of the board would prevent you from cancelling the rate to the Pacific coast in any event, is that right?—A. I do not think so; I cannot conceive of that happening.

By Mr. Johnston:

Q. Isn't it true also that the competitive boat rates would prevent you from cancelling those?—A. I do not think the board would prevent us cancelling those rates if we desired to do so.

Q. But if you did cancel those rates those from the Pacific coast would use water rates?—A. Yes.

Q. So, you are not liable to cancel those rates?—A. We would lose the traffic to the water.

Q. Well, if you did you would be converting it over to your own ships?—A. No, we do not operate ships between the east and west coasts of Canada.

Q. Are there no Canadian Pacific boats at all between Halifax and Vancouver?—A. No.

By Mr. Mutch:

Q. There are not very many sailing from Toronto to Vancouver and that is where a lot of the stuff is shipped from?—A. The only other thing I want to

say to you about that statement is that that is westbound traffic. The eastbound traffic would have taken a little longer to develop because it is on a basis of destinations and there are more destination railways in the east than in the west, but the result might have been a little greater on the eastbound traffic for this period.

By Mr. Johnston:

Q. It is very difficult to hear you here.—A. Sorry. What I am saying is that had we been able to pick out the eastbound traffic on the same basis as this statement the result would have been somewhat greater, that is to say, the eastbound traffic for this period was greater than the westbound traffic.

By Mr. Green:

Q. Would the proportions be about the same, that is, the business which would be endangered and the transcontinental?—A. I would think that is a fair assumption, Mr. Green, but I would not like to give it as final.

By the Chairman:

Q. What is the date that your transcontinental rates were last revised?—A. This year. We applied the 12 per cent increase to them and we have made a number of revisions from time to time.

Q. How recently has a study been made of the cost of water shipment to see as to whether your transcontinental rates have moved up in the proper proportion to the cost of water shipment?—A. I do not think a study of the cost of water shipment has been made but there have been from time to time odd ships making a movement and when we saw what those ships were charging we looked again at our transcontinental competitive rates.

Q. And if you found that you were losing some of that traffic you, of course, would take steps to meet that competition?—A. Yes.

Q. Isn't it true that the \$7 million subsidy over the desert area will be helpful to you?—A. Well, sir, I would say, as I said the other day, that I would not expect and I would hope that the subsidy would not be used to reduce already low competitive rates. I do not think it has a bearing on this question of whether we are meeting competition or not via the Panama canal.

By Mr. Mutch:

Q. You spoke of some ships having sailed and you took a look at the rates they charged. Could you tell the committee from what ports the ships that you looked at sailed from? Were those moving from Halifax to Vancouver?—A. Montreal, Three Rivers, Quebec and Sydney.

Mr. LAING: Can you give us a rough breakdown of your revenue at the lakehead and the west?

The WITNESS: Well, we have developed that in response to requests from the board on what we consider to be an arbitrary basis, and if the committee would like it I would have it done on that basis. Would you like to have it for the whole of the system or just from the head of the lakes west?

Mr. LAING: Just a breakdown from the head of the lakes west.

The WITNESS: Yes. Then, down at the bottom of page 48 and continuing at the top of page 49, the chairman asked for a breakdown of costs by percentages, in three categories; that is, the cost of road maintenance, running costs and general overhead. I am producing a statement entitled "Revenues, expenses and net railway operating income" (basis in use by Board of Transport Commissioners for rate making purposes). For the five years 1947 to 1951 inclusive; and I have shown not only the revenues and expenses but also a lot of other items. Now, I must say in presenting this I do not think it is going to be very helpful to the committee for the point they are interested in, but I am producing it in response to a request.

CANADIAN PACIFIC RAILWAY COMPANY REVENUES, EXPENSES AND NET RAILWAY OPERATING INCOME

N-2

(BASIS IN USE BY BOARD OF TRANSPORT COMMISSIONERS FOR RATE MAKING PURPOSES)

	Year 1947	% of Total	Year 1948	% of Total	Year 1949	% of Total	Year 1950	% of Total	Year 1951 (Estimated)	% of Total
Revenues—	\$		\$		\$		\$		\$	
Freight.....	250,894,000	78.11	287,148,000	80.83	293,249,000	80.73	307,158,000	81.13	353,558,000	82.65
Passenger.....	40,323,000	12.55	38,273,000	10.77	38,204,000	10.52	35,173,000	9.29	37,013,000	8.65
Other.....	30,006,000	9.34	29,829,000	8.40	31,799,000	8.75	36,246,000	9.58	37,222,000	8.70
Railway Operating Revenues.....	321,223,000	100.00	355,250,000	100.00	363,252,000	100.00	378,577,000	100.00	427,793,000	100.00
Expenses—										
Maintenance of Way and Structures.....	51,784,000	18.16	64,566,000	19.82	68,536,000	20.45	65,993,000	19.77	83,003,000	21.10
Maintenance of Equipment.....	57,005,000	19.99	65,282,000	20.04	70,527,000	21.04	67,834,000	20.33	81,885,000	20.82
Traffic.....	7,073,000	2.48	7,760,000	2.38	8,180,000	2.44	8,789,000	2.63	9,376,000	2.38
Transportation.....	133,953,000	46.97	154,069,000	47.29	153,961,000	45.94	149,164,000	44.69	170,887,000	43.45
Miscellaneous Operations.....	7,225,000	2.53	7,620,000	2.34	7,583,000	2.26	7,136,000	2.14	7,789,000	1.98
General.....	14,208,000	4.98	15,842,000	4.86	17,396,000	5.19	18,001,000	5.39	19,176,000	4.88
Railway Operating Expenses.....	271,248,000	95.11	315,139,000	96.73	326,183,000	97.32	316,917,000	94.95	372,116,000	94.61
Provincial Corporation, Municipal and Miscellaneous Tax Accruals.....	4,173,000	1.46	5,525,000	1.69	6,051,000	1.81	6,987,000	2.09	7,267,000	1.85
Dominion and Provincial Income Tax Accruals.....	7,120,000	2.50	2,500,000	0.77	565,000	0.17	10,240,000	3.07	13,623,000	3.46
Hire of Equipment—Net.....	Dr. 1,443,000	0.51	Dr. 1,552,000	0.48	Dr. 1,335,000	0.40	Cr. 1,641,000	0.49	Cr. 952,000	0.24
Joint Facility Rents—Net.....	Dr. 1,194,000	0.42	Dr. 1,076,000	0.33	Dr. 1,022,000	0.30	Dr. 1,259,000	0.38	Dr. 1,259,000	0.32
Total Expenses.....	285,178,000	100.00	325,792,000	100.00	335,157,000	100.00	333,762,000	100.00	393,313,000	100.00
Ratio of Expenses to Revenues.....	88.78		91.71		92.27		88.16		91.94	
Net Railway Earnings.....	36,045,000		29,458,000		28,095,000		44,815,000		34,480,000	
Fixed Charges, Dividends and Surplus Requirements as allowed by Board.....	49,366,000		49,353,000		47,975,000		46,386,000		45,882,000	
Deficiency in Net Railway Earnings.....	13,321,000		19,895,000		19,880,000		1,571,000		11,402,000	

By the Chairman:

Q. Take that item, transportation: \$133,953,000?—A. Yes.

Q. Is that running costs?—A. Those are running costs—they are the cost of operating the trains, put it that way.

Q. And the cost of maintaining equipment would have to be added to that \$133 million odd?—A. It depends on what you want to get, Mr. Chairman; I think what you wanted to get—

Q. I wanted to find if you are making any profit on your transcontinental rate. You see, you have to maintain your trackage and all that kind of thing whether you run trains over it or not, so that your only real net cost related to this low competitive rate is your running cost.—A. Well, not quite. I know exactly what you want to get at, but you won't get it this way. The only thing I can give you is this: There are two bases of approach. The Interstate Commerce Commission made a specific study of what costs are in relation to traffic; actually they made two studies. These studies showed on the one hand, 70 to 80 per cent of operating expense over a long term period on traffic; and the second study went higher and showed them to be 80 to 90 per cent. That was only operating expense and it did not include such things as fixed charges and ballast and so on; therefore, in trying to get those figures, they would not include fixed charges and that sort of thing. And now then, if you want to do anything more extensive than that, you have to make a specific study in relation to the specific incidence of traffic; but we have not done that for our transcontinental traffic. Taking it by and large, if you add the fixed charges, dividends and surplus to the other operating expenses I think it would be fair to say that you would have about 40 per cent of the total cost. The overhead and costs were constant and the other 60 per cent probably vary over the long term with your traffic.

Q. Well, if I were to add the figure of maintenance of equipment, \$57,000,000-odd, to the figure of transportation, \$133,000,000-odd, I get \$190,000,000, and allowing for the 10 per cent error that the Interstate Commerce Commission has indicated, taking off 10 per cent, would I be reasonably close?—A. No, sir. You would have to take the total operating expenses to use the Interstate Commerce Commission percentage. They have a different percentage for each one of these various accounts and I think it is quite impossible for us to use those figures to get that except by a rule-of-thumb basis, and I would say if you wanted to get an approximation of what varied with the traffic, you can take 80 per cent of the total operating expenses, the \$271,000,000 in 1947; approximately 80 per cent of that would vary with the traffic and the balance would not vary with traffic, but each individual movement may be different, the line over which it moves may be different, and if you wanted to make a particular study to find out what you were out of pocket in handling a particular kind of traffic, you would get a different result from that 80 per cent.

Q. Well, in your transcontinental traffic I take it you do not refuse any type—you take all types of traffic.—A. Yes, but our rule of thumb roughly is this: First we find out how far we have to go to keep the traffic, then we look at how much per car mile and per ton mile that will yield. If the yield per car mile and per ton mile is in excess of the average of all traffic, that is prima facie evidence that we are meeting the cost. If it is less, then we have to look at it. That is in evidence in the royal commission.

The CHAIRMAN: Thank you very much.

The WITNESS: At page 52 of the minutes of evidence, Mr. Gillis asked for the fifth class rate on canned goods in eastern Canada and in western Canada and I am producing a statement entitled "Rates on canned goods carloads". Now, I would like before I explain that statement to point out that I am incorrectly reported in replying to Mr. Gillis and I would like to have that corrected because it is on a rather critical and unpopular subject that I am misquoted. I am quoted,

near the bottom of page 52, in this language: "My friend, Mr. Jefferson, tells me the fifth class rate for canned goods is higher in eastern than in western Canada for an equal distance".

Mr. GREEN: It makes quite a difference.

The WITNESS: Quite, but I do not want to mislead the committee.

The CHAIRMAN: In any reprint of these proceedings I will ask the clerk to have that corrected. It would be very helpful to us if you would read the transcript before it goes to the printers.

The WITNESS: We did skim over it but we were under some pressure and we missed some points, but I wanted to point this particular one out.

CANADIAN PACIFIC RAILWAY

RATES ON CANNED GOODS CARLOADS

(Question by Mr. Gillis, Page 52)

From	To	Miles	Present 5th Class Rate
			c
Winnipeg, Man.....	Brandon, Man.....	134	54
	Regina, Sask.....	357	92
	Chatham, Ont.....	144	49
	Peterboro, Ont.....	117	49
	Belleville, Ont.....	153	53
Hamilton, Ont.....	Grenville, Que.....	343	69
	Lachute, Que.....	371	69
	Vaudreuil, Que.....	349	69
	Montreal, Que.....	373	69
	Maccan, N.S.....	133	40
Halifax, N.S.....	Malagash, N.S.....	139	40
	Sable River, N.S.....	143	41
	Plaster Rock, N.B.....	356	63
	Caraquet, N.B.....	357	65
	Charlo, N.B.....	357	59
	Bathurst, N.B.....	313	54

Now, that statement which I am filing contains the fifth class rates asked for by Mr. Gillis and I want to have it clear that there are, in addition to those rates, competitive rates from Hamilton to Montreal that are not shown on that statement. For the other points shown on the statement there are no competitive rates, but the competitive rates from Hamilton to Montreal that are not shown are water competitive in the summer and truck competitive in the winter, and the water competitive in the summer are somewhat lower than the truck competitive and both are lower than the fifth class rate by a substantial amount.

I do want to point out, too, in regard to this statement, that since there are fifth class rates the equalization proposal would equalize those rates; they would not equalize the competitive rates.

Now, then, the honourable minister at page 59 asked for a division of the total traffic as between that which moves at rates included in the exceptions listed in subsection 4 of section 332A of the bill and that which moves at other rates. The minister suggested to me that approximately 50 per cent of the total traffic would

be represented by these exceptions. Our traffic people have developed a figure from estimates that have been made before the Board of Transport Commissioners and I find that approximately 41·1 per cent of our revenue in the year 1950 was derived from the traffic included in these exceptions, and the amount of the revenue involved in these exceptions that year was \$126,000,000. I also had our people make an attempt to estimate the balance of the traffic as divided between that moving at class rates, that moving at mileage commodity rates, and that moving at point-to-point commodity rates.

Now, we have a reasonably good figure for class rates from the waybill analysis, and our people tell me that about 18·5 per cent moved at class rates.

By Mr. Green:

Q. What of the exceptions?—A. I first said the exceptions in the bill included a total of 41·1 per cent.

Q. Instead of the 50 per cent? You gave us 50 per cent the other day.—A. That was the minister's figure and I told him I would check it. I found it was 41·1 per cent and he was not too far out for a first guess.

Taking the balance, the 58·9 per cent, I find that 18·5 per cent of the total traffic moves at class rates, as nearly as I can gather, and approximately 15 per cent of the total traffic moves at mileage commodity rates, and 25·4 per cent pays point-to-point commodity rates. I have very much confidence in the 18·5 per cent figure but I have less confidence in the division of the commodity rates.

Hon. Mr. CHEVRIER: Does that account for the 58·9 per cent?

The WITNESS: I think it does.

Mr. GREEN: What was the last figure?

The WITNESS: 18·1 per cent and 25·4 per cent. It is a little more than that, and my arithmetic was wrong, but I think those figures will be found to add up.

Mr. Browne, at page 67 of the transcript, asked me to bring copies of the standard tariff so the committee could see what they looked like. I distribute those now.

There is one other thing and I am through. The reporter in reproducing one of our amendments underlined the wrong words. That appears at page 85. It is in our proposal for Section 332A, subsection (2). You will see there "to establish a uniform scale or scales . . .". The underline should have been under the words "or scales" and not under the words "scale or".

The CHAIRMAN: Thank you, Mr. Evans.

Before we adjourn, gentlemen, there are two matters I wish the committee would deal with. The clerk informs me that he has already exhausted our full printing of the English part of our votes and proceedings. Could I have a motion authorizing the printing of an additional 300 copies in English?

Mr. ASHBOURNE: I would so move.

The CHAIRMAN: All those in favour?

Carried.

In regard to our meeting, this being Wednesday the committee will not want to sit tonight—or I assume the committee will not want to meet tonight.

Some Hon. MEMBERS: Hear, hear.

The CHAIRMAN: That being so I would ask members of the committee to hold tomorrow evening open in case we have to sit for a short time to complete evidence where we have partly had the hearing of a witness who may wish to leave on a late train or something of that sort. So, do as much as you can to keep tomorrow night clear.

Mr. MURCH: Before the committee does rise I would like to suggest for the consideration of the committee a change from this 3.30 sitting. We have

monkeyed around with the hours in the House sufficiently to satisfy anyone, I think, and the House is sitting until 6.15. It seems to me that from 4 o'clock until 6 o'clock is about as long as anyone can sit here and pay much attention—at least it is for me. I suggest that we have our afternoon sittings from 4 o'clock until 6 o'clock as heretofore.

The CHAIRMAN: We can perhaps have a round table discussion on that. To be perfectly frank I think 3.30 to 5.30 would suit me fine.

Hon. Mr. CHEVRIER: I prefer that.

Mr. MUTCH: I will amend my suggestion and say "a two hour sitting".

The CHAIRMAN: We will keep it at 3.30 to 5.30. Many of us want to sign mail and get it out.

We will meet at 11 o'clock tomorrow morning in this room.

The meeting adjourned.

Appendix "A"

STATEMENT OF SCHEDULE "A" (NORMAL RATES), PRESENT CLASS
 RATES, AND PROPOSED UNIFORM MILEAGE CLASS RATES;
 AND DIFFERENCES BETWEEN PRESENT CLASS RATES
 AND PROPOSED UNIFORM MILEAGE CLASS RATES
 FROM MONTREAL, P.Q., AND TORONTO, ONT.,
 TO ILLUSTRATIVE MARITIME
 DESTINATIONS

(Rates in cents per 100 pounds)

A—Schedule "A" (Normal) Rates; including 12% interim increase effective July 26, 1951.

B—Present Class Rates; including 12% interim increase effective July 26, 1951.

C—Proposed Uniform Mileage Class Rates; including 12% interim increase effective July 26, 1951.

D—Increase: Proposed Mileage Class Rates over Present Class Rates.

From:
 MONTREAL, QUE.

To:	Miles		CLASSES								
			1	2	3	4	5	6	7	8	10
Saint John, N.B.....	488	A	169	149	129	106	86	80	60	65	59
		B	164	142	122	102	82	76	59	60	56
		C	243	206	170	133	110	97	85	73	66
		D	79	64	48	31	28	21	26	13	10
Moncton, N.B.....	585	A	183	157	137	114	90	86	65	67	60
		B	164	142	122	102	82	76	59	60	56
		C	278	236	195	152	125	111	97	83	75
		D	114	94	73	50	43	35	38	23	19
Charlottetown, P.E.I.....	711	A	199	176	149	127	100	94	67	69	65
		B	169	149	129	106	86	80	60	65	59
		C	316	269	221	174	142	127	111	95	85
		D	147	120	92	68	56	47	51	30	26
Halifax, N.S.....	774	A	211	184	157	133	106	100	74	76	69
		B	169	149	129	106	86	80	60	65	59
		C	329	280	231	181	148	132	115	99	88
		D	160	131	102	75	62	52	55	34	29
Sydney, N.S.....	927	A	234	204	176	147	116	110	82	86	80
		B	183	157	137	114	90	86	65	67	60
		C	376	320	263	207	169	150	132	113	102
		D	193	163	126	93	79	64	67	46	42

From:
TORONTO, ONT.

Saint John, N.B.....	937 (810)*	A	234	204	176	147	116	110	82	86	80
		A	216	190	164	134	108	102	76	80	74)
		B	187	164	141	116	94	87	65	67	60
		C	376	320	263	207	169	150	132	113	102
		D	189	156	122	91	75	63	67	46	42
Moncton, N.B.....	916	A	227	203	174	142	114	108	80	82	76
		B	187	164	141	116	94	87	65	67	60
		C	370	315	259	204	167	148	130	111	100
		D	183	151	118	88	73	71	65	44	40
Charlottetown, P.E.I.....	1,042	A	253	220	190	157	127	121	90	94	87
		B	194	169	147	121	96	90	67	69	65
		C	403	343	282	222	181	161	141	121	109
		D	209	174	135	101	85	71	74	52	44
Halifax, N.S.....	1,105	A	256	224	194	161	129	122	94	96	90
		B	194	169	147	121	96	90	67	69	65
		C	423	360	297	233	190	169	148	127	114
		D	229	191	150	112	94	79	81	58	49
Sydney, N.S.....	1,256.6	A	281	244	211	176	141	134	102	106	100
		B	204	177	156	129	102	96	69	74	67
		C	464	394	325	255	208	186	162	139	125
		D	260	217	169	126	106	90	93	65	58

* Short Line Mileage via Canadian Pacific Railways.

HOUSE OF COMMONS

Fifth Session—Twenty-first Parliament
1951

CHIXC 2

(Second Session)

SPECIAL COMMITTEE

ON

RAILWAY LEGISLATION

CHAIRMAN—Mr. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

IN RELATION TO

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act,
1933;
Bill No. 7, An Act to amend The Maritime Freight Rates Act;
Bill No. 12, An Act to amend The Railway Act.

THURSDAY, NOVEMBER 15, 1951

WITNESSES:

Mr. C. D. Shepard, K.C., Counsel, for Manitoba;
Mr. M. A. MacPherson, K.C., Counsel, for Saskatchewan;
Mr. J. J. Frawley, K.C., Counsel, for Alberta.

SPECIAL COMMITTEE
on
RAILWAY LEGISLATION

Chairman: Mr. Hughes Cleaver

Vice-Chairman: Mr. H. B. McCulloch

and

Messrs.

Argue,
Ashbourne,
Benidickson,
Brooks,
Browne
 (*St. John's West*),
Byrne,
Cavers,
Chevrier,
Churchill,
Diefenbaker,

Gillis,
Green,
Helme,
Johnston,
Kirk (*Digby-
 Yarmouth*),
Lafontaine,
Laing,
Low,
Macdonald
 (*Edmonton East*),

Macdonnell (*Greenwood*),
MacNaught,
Macnaughton,
Mott,
Mutch,
Nowlan,
Picard,
Pinard,
Riley,
Weaver,
Whiteside,—31.

(Quorum 10).

ANTOINE CHASSÉ,
Clerk of the Committee.

ORDERS OF REFERENCE

RAILWAY LEGISLATION

MONDAY, November 12, 1951.

Ordered,—That the name of Mr. Byrne be substituted for that of Mr. Mott on the said Committee.

THURSDAY, November 15, 1951.

Ordered,—That the name of Mr. Whiteside be substituted for that of Mr. Stewart (*Yorkton*) on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

Room 277, House of Commons.

TUESDAY, November 15, 1951.

The Special Committee on Railway Legislation met at 11.00 o'clock a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Byrne, Cavers, Chevrier, Churchill, Cleaver, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), MacNaught, Macnaughton, McCulloch, Mutch, Riley, Weaver.

In attendance: Mr. C. D. Shepard, K.C., Counsel, with Mr. R. S. Moffatt, Economic Adviser, Mr. W. T. MacDonald F.C.A., accounting consultant and Mr. S. A. Laing, C.A., also accounting consultant, representing the province of Manitoba; Mr. M. A. MacPherson, K.C., with Mr. F. C. Cronkite, K.C., Dean of the Faculty of Law, University of Saskatchewan, Counsel, and Mr. George Olivier, Economic Adviser, representing the province of Saskatchewan; Mr. J. J. Frawley, K.C., Counsel, with Mr. K. J. Morrison, F.C.A., Accounting Adviser on Freight Rates representing the province of Alberta; Mr. C. W. Frazier, Counsel, with Mr. M. Glover, Economic Adviser, representing the province of British Columbia; Mr. Hugh E. O'Donnell, K.C., with Mr. H. C. Friel, K.C., General Solicitor, and Mr. J. A. Argo, Assistant Vice-President, Freight Traffic, appearing on behalf of the Canadian National Railways; Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company, with Mr. C. E. Jefferson, Vice-president of Traffic, and Mr. K. D. M. Spence, Commission Counsel, also of the Canadian Pacific Railway Company; Mr. George A. Scott, Director, Bureau of Transportation Economics, Board of Transport Commissioners; Mr. Leonard T. Knowles, Special Adviser of Traffic to the Royal Commission on Transportation; Mr. W. J. Matthews, K.C., Department of Transport; Mr. H. A. Mann, General Secretary, The Canadian Industrial Traffic League Incorporated, of Toronto.

The Committee resumed the hearing of representations concerning Bills 12, 6 and 7.

In this respect, Mr. C. D. Shepard, K.C., Counsel for the province of Manitoba, was called. The witness read a submission and was questioned thereon. Mr. R. S. Moffatt, Adviser, assisted the witness and at the conclusion of his testimony Mr. Shepard was thanked by the Chairman and was retired.

Mr. M. A. MacPherson, K.C., Regina, Sask., Counsel, for the province of Saskatchewan, was called. The witness made representations on behalf of that province. He was assisted by Mr. F. C. Cronkite, K.C., and Mr. George Olivier.

And the examination of Mr. MacPherson still continuing, the said examination was adjourned to the next meeting.

At 1.00 o'clock p.m., the Committee adjourned to meet again at 3.30 o'clock p.m. today.

AFTERNOON SITTING

The Committee met again at 3.30 o'clock p.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Byrne, Cavers, Chevrier, Cleaver, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), MacNaught, Macnaughton, McCulloch, Mutch, Riley, Weaver, Whiteside.

In attendance: The same officials as are mentioned in attendance at the morning sitting with the addition of Mr. Rand Matheson, Executive Manager, and Mr. F. D. Smith, K.C., Counsel, of the Maritimes Transportation Commission, and also representing the four Maritime provinces.

The Committee resumed the hearing of representations concerning Bills Nos. 12, 6 and 7.

The examination of Mr. M. A. MacPherson, K.C., was resumed and concluded. At the conclusion the Chairman thanked the witness and he was retired.

Mr. J. J. Frawley, Counsel, for the province of Alberta, was called. The witness read a submission for and on behalf of that province and he was questioned thereon. At the conclusion of his testimony Mr. Frawley was thanked by the Chairman and he was retired.

At 5:20 o'clock p.m. the Committee adjourned to meet again at 11:00 o'clock a.m., November 16.

ANTOINE CHASSÉ

Clerk of the Committee.

EVIDENCE

NOVEMBER 14, 1951

11.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. We have with us today Mr. C. D. Shepard, K.C., counsel appearing for the province of Manitoba; Mr. R. E. Moffat, economic adviser to the province of Manitoba; Mr. W. J. Macdonald, F.C.A., accounting consultant, and Mr. S. B. Laing, C.A., also accounting consultant for the province of Manitoba. Mr. Shepard?

C. D. Shepard, K.C., Counsel for the province of Manitoba, called:

The WITNESS: Mr. Chairman and members of the committee, I think it might be well in opening this submission to mention that the group appearing before your committee today constitutes most of the group that worked on behalf of the Manitoba government both before the Royal Commission on Transportation and also on behalf of that government on the various freight rates hearings before the Board of Transport Commissioners since the end of World War II.

In opening this submission, with reference to bill 12, being an Act to amend the Railway Act, it is perhaps appropriate to say on behalf of the government of Manitoba that the opportunity of being heard on this important matter is much appreciated.

Manitoba is in full support of the main principles of the bill. We do however wish to ask for the elimination of one section and for a few other relatively minor changes.

As you are no doubt aware, the government of Manitoba has, for many years past, intervened as the voice of the people of our province to protect their interests in the many proceedings that have occupied the Board of Transport Commissioners. More recently, since the end of World War II, the Manitoba government has actively opposed the several freight rate increases applied for by the Railway Association of Canada, and has also made extensive submissions to the Royal Commission on Transportation.

Throughout these various proceedings, Manitoba has consistently taken a position that may be broadly summarized by three brief statements:

1. Manitoba recognizes that Canada's railway service must be maintained if the economy is to continue to prosper and expand.
2. Maintenance of railway service is dependent upon adequate rail revenues.
3. Adequate rail revenues must not be obtained in greater degree than is absolutely essential from any one area of Canada to the economic detriment of that area and the economic advantage of any other area.

Within these limits Manitoba has supported and still supports the principle of equalization of freight rates.

Proposed Section 332A—Equalization

Referring now to certain sections of bill 12 your attention is invited first to section 332A dealing with equalization and declaring the national freight rate policy.

Manitoba supports the passage of this section. I am, however, instructed to advise your committee that the technical advisers of the Manitoba government do not consider that the equalization plan filed by the Railway Association with the Board of Transport Commissioners is either fair or equitable. We recognize however that your committee is concerned only with the general principle of equalization as set out in the proposed statute. With that we are in full agreement.

The proper forum to hear submissions as to proposals for implementing the principle is the Board of Transport Commissioners. Hearings as to such plans are to start on January 10th before that board and Manitoba will make detailed representations to the board at that time.

Proposed Section 331—Competitive Rates

We in Manitoba are pleased to note that by proposed section 331 the Board of Transport Commissioners has been given mandatory policing powers with respect to competitive rates.

The unsupervised fixing of competitive rates by the rail carriers has in the past resulted in an increase in the non-competitive rates in order to maintain the overall revenue requirements of the rail carriers. This of course results in heavier transportation charges being borne by those people who live in the areas of Canada where rail competition does not exist to the same extent as in other areas.

There is no doubt in the minds of any of us that in the past a great number of low rates were introduced by the railways as competitive rates and were allowed to remain in effect long after the competition had been reduced or disappeared. In fact, we feel confident that in many cases the competition was more apparent than real even at the outset. These low competitive rates have always been particularly numerous in certain parts of Canada and we of Manitoba have always felt that we paid more than our share toward covering the revenue losses which resulted from these concessions in other areas. We have therefore consistently taken the position that competitive rates should be permitted by the Board of Transport Commissioners only if competition really exists and that such rates should be strictly and relentlessly supervised by the Board of Transport Commissioners. If the board is not required to do this, it is surely failing to carry out its most important function, which is, of course, protect the public interest.

Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company gave the best possible illustration of why we in Manitoba have this view, when he said before this committee on November 6, (p. 26 of Minutes of Proceedings and Evidence, No. 1):

It really gets down to this. The making of competitive rates is largely a matter for the judgment of the traffic officers of the railway company. This judgment is either good or bad, depending upon the individual who makes the decision. Good traffic officers have good judgment. Poor traffic officers have poor judgment.

Without reflecting on the integrity or judgment of any railway traffic officer, surely if there is room for poor judgment having an adverse effect on any section of the public, the Board of Transport Commissioners should be empowered to deal with the matter.

It is for this reason that Manitoba strongly supports the proposed new section 331.

Proposed Section 332B—1½ Rule

Another section to which your attention is invited is proposed section 332B which introduces what may, for convenience, be referred to as the 1½ rule.

Section 332B is the one section in the bill to which the Manitoba government is opposed and it is submitted with respect that your committee should recommend the deletion of this section from the bill.

As a preliminary comment on this section, it is noted that the recommendation of the Turgeon Royal Commission (p. 100 of the report) on which the section is presumably based, was not advocated by any person or organization appearing before the commission. The railways did not suggest it as sound from a rate-making point of view. The provinces and other interested groups did not suggest it as sound from either a rate-making or economic point of view. In short, the suggested 1½ rule is entirely arbitrary in character, unsupported by any representation before the Turgeon Commission.

The basis of Manitoba's opposition to proposed section 332B is that if it is passed, it will have a decidedly detrimental effect upon the province of Manitoba and in particular a number of businesses in the city of Winnipeg. In other words, it will make it more difficult for certain Winnipeg firms to maintain their position in certain markets which they now serve in centres west of Winnipeg. This in turn may well have the effect of reducing employment in the province of Manitoba. The city of Winnipeg and the Winnipeg Chamber of Commerce will be represented here (I understand they will be here next Monday) and will give your committee specific illustrations of the impact of the 1½ rule.

The reason for our opposition to section 332B becomes apparent from consideration of one illustration. Assume that a Winnipeg wholesaler or jobber ships to various points in Saskatchewan or Alberta—which he has done for many years in the past. One important factor in his ability to compete in the prairie market is freight rates.

For example, his all-rail rate today from Hamilton to Winnipeg on certain iron and steel products (angles, bars, beams, channels and pilings) is \$1.64, while his rate on distribution from Winnipeg to, say, Battleford, Saskatchewan is \$1.10. So that goods can be brought to Winnipeg and distributed from there into Battleford at a total freight cost of \$2.74 per one hundred pounds. The all-rail rate on the same goods from Hamilton to Edmonton is \$2.91. Thus today, and for many years past, the Winnipeg distributor has had a competitive advantage from a freight rate point of view over the Edmonton distributor in supplying the area around Battleford and for some distance to the west of Battleford.

This has created work in Winnipeg warehouses; it has become part of the stable bread and butter economy of the city. It is an important factor in Winnipeg's welfare, and because of the fact that Greater Winnipeg's population is nearly half of the total population of the province, Winnipeg's continued welfare is of importance to the welfare of the entire province.

The rate on the same product from Hamilton to Vancouver (a so-called transcontinental competitive rate) is only \$1.48. It is therefore easy to see the effect of the 1½ rule on the existing competitive situation. If the Edmonton rate should be limited to 1½ of the transcontinental rate, it would become \$1.97 instead of \$2.91 or only 33 cents higher than the Winnipeg rate of \$1.64. In other words the railways would receive only 33 cents for hauling 100 pounds of these iron and steel products from Winnipeg to Edmonton—a distance of 793 miles.

Since the rate from Edmonton to Battleford is only 63 cents, the Edmonton distributor could have his goods shipped to Edmonton and back to Battleford cheaper than a Winnipeg distributor could have his goods shipped from Toronto to Battleford through Winnipeg.

The actual figures on that comparison would be shipping them, say, in carload lots or large quantities to Edmonton at \$1.97 plus the 63 cents for the

back haul on small lots back to Battleford or a total of \$2.60. Whereas for the Winnipeg distributors to lay down the same goods in the same place would cost \$2.74.

Not only will this have a serious effect on existing business in the province of Manitoba, but it could result in the railways hauling goods a greater distance for less revenue than they are now doing—surely a most uneconomic operation.

This situation with respect to transcontinental rates is merely a special case of the competitive rate situation. There are literally thousands of competitive rates in Canada and in our view the proper principle to be followed in dealing with them would be as follows. A rate structure should be established which is uniform for all parts of Canada and applicable where no special circumstances are involved. This is to be done under sections 329 and 332A of the proposed bill.

Those sections, as you know, provide for a single uniform scale of mileage class rates and mileage commodity rates. Once that structure has been laid down special concessions to a particular type of traffic or a particular area should be granted only when good reasons exist in terms of a competitive situation. This is to be done under section 331 of the proposed bill which deals with competitive rates.

We think it is fundamental however that special concessions of this type should be granted only where the conditions of section 331 are fulfilled. We think that section 332B is wrong both in principle and in practice because it would give to a restricted area a special low rate which is not justified by the competitive tests of section 331 or by the national freight rates policy of equalization as set out in section 332A. The effect would inevitably be to reduce railway revenue in that area below the level which is reasonable and proper under an equalized rate structure with the result that other areas would be called upon to pay slightly higher rates to make up the necessary revenue. For that reason we support the enactment of sections 329, 331 and 332A without the restriction and distortion introduced by section 332B.

The illustration just outlined will explain why our friends from the provinces west of Manitoba may well support the $1\frac{1}{2}$ rule found in section 332B. We do not criticize their self-interest in the matter, but we do submit that two factors cannot be answered in terms of logic or justifiable self-interest. The two factors are:

1. The disturbance of existing and long established competitive positions of businesses in the various centres of western Canada. This factor will be developed in detail through the representations to be made on behalf of the city of Winnipeg and the Winnipeg Chamber of Commerce.
2. The distortion of a sound set of principles laid down in sections 329, 331 and 332A by the special concession to a particular area on a particular type of traffic as set out in 332B.

Now, that is all that we propose to say on the subject of section 332B. There are several matters which were brought out in the C.P.R. evidence on which we desire to make certain comments.

Abolition of Standard Freight Tariffs

In discussing the abolition of standard freight tariffs which results from section 7 of bill 12, Mr. Evans (at p. 16 of Minutes of Proceedings and Evidence, No. 1) states that before the royal commission, Manitoba while proposing the abolition of standard rates in its brief, offered amendments to the Railway Act expressly retaining standard rates.

While that is true (and we are not denying that it is true) the explanation of this apparent contradiction is a difference in terminology. The substance of our request has always been that there should be one uniform class rate scale

(that is now provided in this bill) and that that scale should be well below the existing standard class rate scale. In our submissions to the royal commission we requested that the existing standard class rate scale be abolished and replaced by such a uniform scale. When we submitted a draft amendment we chose the term 'standard freight tariff' to describe the new scale which we proposed. This is quite consistent with the scheme set out in proposed Section 332A and for that reason we are in complete support of that Section.

Whether a uniform class rate scale is called by one name or another, is, we feel, unimportant.

Arbitraries

The C.P.R. witnesses also dealt with the importance of arbitraries and made the suggestion that the Legislation should permit one or more class rate scales; (beginning at p. 38, Minutes of Proceedings and Evidence, No. 1 and beginning at p. 66, Minutes of Proceedings and Evidence, No. 2).

As we have already pointed out, Manitoba's proposal has always been that there should be one uniform class rate scale and we are therefore opposed to the C.P.R.'s suggestion that provision should be made for more than one such scale.

On the question of arbitraries, it is submitted that Bill 12 in its present form does not preclude the continuance of the use of arbitraries in the Canadian freight rate structure, if the Board of Transport Commissioners should determine that their continuance is advisable.

Your Committee is referred specifically on this point to two sub-sections in the Bill. Firstly, Section 332A (4) (f) provides that the Board may in any case that it considers proper make an exception from the requirements laid down in the Section for the establishment of uniform mileage class and commodity rates. In our view this provision is wide enough to permit the Board to make use of arbitraries in appropriate cases. Secondly, Section 329(b) provides that class rate tariffs may specify class rates between specified points on the Railway, which rates may be lower than those set out in the mileage scales. Here again it is our view that this provision is sufficiently broad in its wording to permit the Board to make use of arbitraries.

What we have asked for is a uniform class rate scale across the country with no rates above that scale and with rates below that scale allowed when, and only when, the Board of Transport Commissioners think they are justified.

MR. JOHNSTON: Where are you reading from now?

THE WITNESS: This is a comment I am putting in because of a discussion that took place before the committee. I will tell you when I get back to the brief.

MR. GREEN: Could we have that again?

MR. MUTCH: They were not listening?

THE WITNESS: The comment I am interjecting at this point, Mr. Chairman, is this—I will repeat it:

What we have asked for is a uniform class rate scale across the country with no rates above that scale and with rates below that scale allowed when, and only when, the Board of Transport Commissioners think they are justified—in other words a level scale across the country as a ceiling, with departures below that when they are shown to the Board of Transport Commissioners, the proper forum, to be justified. We think that is the general principle of the proposed bill. We think that arbitraries below the uniform scale could be authorized under the proposed bill by the board if the board decides that is proper. If, however, to make assurance doubly sure, the maritime representatives wish to add a provision—and that is as far as we go in the matter with them—if they desire to add a provision specifically stating that the bill does not require the abolition of arbitraries, we would have no objection to such a provision. We would not go any further than that in our position in regard to the matter.

Hon. Mr. CHEVRIER: You still think that 332A (4) (f) covers the proposed exceptions of the maritimes yesterday?

The WITNESS: It is our view, but it is only our view and it could be wrong. However, if our friends from the maritimes feel, to make assurance doubly sure, that something should be put in by way of clarification, we would not favour taking from the transport commissioners the discretion that must be justified before it. The only provision we would favour would be an amendment stipulating that this section does not mean arbitraries or rate groupings are necessarily abolished.

Hon. Mr. CHEVRIER: That means a rearrangement or rewording of (f)?

The WITNESS: Or another subsection.

Mr. GREEN: You do not ask that the maritimes lose their present rate structure?

The WITNESS: We do not ask that they lose it. I cannot speak for the maritimes, naturally, but I think they would be prepared as we are, to go before the Board of Transport Commissioners and take their chances on justifying what they consider to be proper as a new deal on freight rates in this country.

By Mr. MacNaught:

Q. Would you say you gathered that from the representation made yesterday?—A. Well, I have no wish to express myself as to just what I gathered from the representations yesterday.

Some Hon. MEMBERS: Hear, hear.

The WITNESS: I do feel that there were parts which were not entirely clear to me but we have discussed the matter between ourselves overnight and we will let the maritimes say whether they would be satisfied with what I have just expressed to your committee. I would rather not say what I thought of them or what they think of me at the moment—but we are still good friends, I can assure you of that.

By Mr. Mutch:

Q. If it is a fair question, and I do not want to embarrass you, I have understood there was a broad field of agreement between the province of Manitoba and the maritimes in their request. Do you feel that the request stated yesterday to this committee went beyond what was hitherto the field of agreement?—A. In answer to that, Mr. Mutch, I would say that as far as I was concerned at the end of yesterday's meeting of this committee I did feel that the maritimes had perhaps gone a little further, maybe just in the heat of the discussion, than we had indicated we were prepared to support them. What I have now done is to come forward with the suggestion that we have no opposition whatever to an amendment which will ensure that the existing maritime situation will be taken into consideration by the Board of Transport Commissioners when they are giving effect to these general principles set out in the bill and which we are most anxious to have on the statute books.

By Mr. Brooks:

Q. May I ask Mr. Shepard this? Would you like to see a uniform rate across Canada?—A. Yes.

Q. And any changes in that rate would have to come from the Board of Transport Commissioners?—A. Yes.

Q. Would that not mean the elimination of the Maritime Freight Rate Act as we have it today?—A. I should have been more specific. We are not quarrelling with any of the exceptions spelled out in the section now. We do

feel there may be other exceptions which should be considered and have merit, and which can be considered before the board. We do not want to have the door closed to any party going before the board to justify exceptions that are not spelled out now in the section. Shall I go on?

Mention should also be made, apart from the matter of arbitrariness, of another aspect of the wording of Section 329(b).

Now, Mr. Chairman and members of this committee, it is not a very long section and I think perhaps my point will be made more rapidly if I read Section 329. It is the section in Bill 12 which states what class rates are to specify. It reads:

329. Class rate tariffs

(a) shall specify class rates on a mileage basis for all distances covered by the company's railway, and such distances shall be expressed in blocks or groups and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls, and

(b) may, in addition, specify class rates between specified points on the railway which rates may be higher or lower than the rates specified under paragraph (a).

Now, the two words I shall make a few comments on are "higher or" in the second last line of 329—" . . . higher or . . ." but not "lower". The word "lower" is all right, but we do question the words "higher or".

It is noted that this provision would permit the fixing of class rates at a higher level on a point-to-point basis than those fixed on a mileage basis. In our view it is fundamentally wrong that any rate should be approved on a level higher than the mileage class rate scale.

In other words the mileage class rate scale should constitute a ceiling. Unless there is some valid reason not apparent on the face of this provision for the inclusion of the words "higher or", it is submitted that they should be deleted.

Section 18—\$7,000,000. Subsidy

With respect to Section 18, which is the subsidy section, we had intended making a somewhat lengthy submission, asking that it be amended in such a manner as to ensure that the benefit of any subsidy is credited to the long haul traffic east and west. We now see (from p. 82, Minutes of Proceedings and Evidence, No. 2) that the Honourable Mr. Chevrier has informed the committee that his department intends to amend the Section so that "this subsidy will be reflected in the freight rates, that is, east and west". We have, therefore, decided to withhold any comment on the matter until the wording of the amendment is available, at which time it may be that our comments will prove unnecessary.

Hon. Mr. CHEVRIER: We hope.

The WITNESS: Yes, we hope.

East-West Differential in Freight Rate Levels

There is one further matter which we do not feel is of substantial importance to the considerations before your committee, but which we feel must be commented upon in order to remove an erroneous impression created by Mr. Evans.

I say that with great respect, because I have a very high regard for Mr. Evans.

At page 53 of the Minutes of Proceedings and Evidence, No. 1, Mr. Evans refers to the evidence submitted on behalf of Manitoba by Mr. Moffat, who is sitting with me today, the Economic Adviser of the province, on the difference

in the level of freight rates in eastern and western Canada. Mr. Evans indicated that in the 21 per cent case—which was the hearing in 1947 finally decided in March of 1948—and that evidence indicated that the general level of rates was approximately 13 per cent to 14 per cent higher in western Canada than in the central provinces.

He then added... and I am quoting Mr. Evans:

what was shown to be a difference of 13 per cent to 14 per cent has now become an equality, or it had become an equality in 1950.

What Mr. Evans did not add is that since the 1950 study was made, a substantial part of this difference has been re-introduced by the railways. This has come about because of the fact that since September 1949 the railways have been authorized to increase rates by 20 per cent, and then an additional 12 per cent; a total of 34.4 per cent.

That total percentage is obtained by taking the rates prior to the 1949 increase as 100 adding 20 which gives you 120 and applying 12 per cent to that which is 14.4—so the total is 34.4.

That increase of almost 35 per cent has been applied to all non-competitive rates under the jurisdiction of the Board of Transport Commissioners and has not been applied generally to competitive rates. The result is that increases in western Canada have been substantially greater than in eastern Canada and the differential against the west has been re-introduced. The 12 per cent increase has been effective only since July 1951 and consequently it has not been possible to make any calculation on the basis of the rate levels at the present time. As I have already stated, Mr. Moffat is present today and he will be glad to amplify these comments should your committee so desire.

In conclusion the Manitoba government has instructed me to voice its appreciation of the fact that the federal Parliament has acted promptly and in our view effectively on certain of the recommendations of the Turgeon Royal Commission. The introduction of a national freight rates policy, more adequate control over competitive rates, uniform accounting and adequate statistical procedures, are all measures which will, if properly applied and interpreted, do much to alleviate the sectional differences which have come to exist under the present piecemeal freight rate structure.

By Mr. Weaver:

Q. Mr. Chairman, Mr. Shepard said at the beginning of his presentation that Manitoba supports the passage of the equalization section—that is 332A. Later on he objected to the $1\frac{1}{3}$ rate in connection with competitive rates. I wonder what his position would be on 332A if the $1\frac{1}{3}$ rate were to stand?—A. I take it, Mr. Chairman, that what Mr. Weaver is asking is this: That if Manitoba's submission that 332B should be deleted is not given effect then what would we say about the bill generally?

Q. That is it.

Mr. Low: May I take you back just a moment.

Hon. Mr. CHEVRIER: May we have an answer to Mr. Weaver's question?

The WITNESS: I was just restating the question to make sure I understood it.

Mr. Low: I am sorry.

The WITNESS: I think my answer to that would be that we still maintain that our objections are well taken and the suggestions we have made are sound.

Our position is that we are primarily interested in having implemented the main items in Bill 12 and if the only way to get those would be take Section 332B with it—I speak personally but with some experience and with the Manitoba government man at my side—I would say we would take the bill in that form.

Our view is it is important to us in the west and we think it is important from a national standpoint that the national freight rates policy should be implemented and introduced. We think control of competitive rates is vital to our interests as we see them. We think proper application of the \$7 million subsidy is a third vital matter in the bill and we feel that the provisions relating to uniform accounting are of substantial importance. If we can get those four, while we still insist we are entirely correct in our objections to 332B—and I hope the committee will understand I am answering the question on a hypothetical basis—we would take the bill as is rather than lose those substantial benefits we feel are in it.

By Mr. Low:

Q. Now, may I ask Mr. Shepard this: Can I take you back to page 5 of your submission? That is the place where you are giving an example of alleged unfairness to the city of Winnipeg through the application of the 1½ rule. I think you stated that the rate from Edmonton to Battleford is 63 cents?—A. That is my understanding.

Q. Is it not true that the rate from Winnipeg to Battleford is \$1.10?—A. We have it in here, Mr. Low.

Q. When you compare those two rates would it not be true to say that Battleford is in the natural distribution area of Edmonton but not of Winnipeg?—A. I would not quarrel with that if you are considering the distribution of products that are not imported from eastern Canada. If you are considering the distribution of poultry that is grown in the area I would say yes definitely. Battleford would be in the Edmonton area of distribution then. But where you are bringing in steel goods from Hamilton and going right through Winnipeg up to Edmonton I would not agree with you.

Q. Are those steel goods produced in Winnipeg?—A. No, they come from Hamilton.

Q. Then would it not be quite proper to say that distribution to Battleford through Edmonton in this case would only be gaining something that really belongs to Edmonton?—A. I do not think you can get me to agree to that.

Q. Would there be anything wrong with Edmonton attempting to regain that?—A. Nothing whatever. Competition is perfectly justified and, if they can regain it, the more power to them.

The CHAIRMAN: Mr. Shepard, would this prejudicial aspect affect the Winnipeg distributor in carload shipments? Would not the prejudice be confined only to l.c.l. shipments?

Mr. Low: We can hardly hear you, Mr. Chairman.

The WITNESS: I think the chairman's question was: Would the application of the 1½ rule harm carload shipments out of Winnipeg or would it not be confined to the possible harming of l.c.l. shipments?

Mr. Mutch: That is the question?

The WITNESS: I think perhaps that is right. My economic adviser hands me something which says: "Also the fabricators." In Winnipeg, presumably they would be put at disadvantage.

The CHAIRMAN: As to the fabricators in Winnipeg, would not a slight extension of the "in transit" rule help you out on that problem?

Mr. Mutch: No.

The WITNESS: I think it would have to be more than a slight extension of it. The "in transit" rule, as I understand it—and I do pretend to be an expert on it—would have to be stretched very far to permit fabrication by a manufacturing process en route.

By the Chairman:

Q. Well, I know that raw lumber being brought down from the north in Ontario the rules allow it to be milled into mouldings and so on. Why could not the same thing apply to steel?—A. Well, if it would that might be something that should be considered. I have in mind one Winnipeg business that I happen to know something about that fabricates furnaces. They start with steel sheets and end up with a furnace. I would say that would be a fairly substantial in transit privilege if they would be allowed to do that.

By Mr. Mutch:

Q. I would like to ask Mr. Shepard if he would care to comment on what I at any rate conceive to be a danger of rate increases both to the Pacific coast and to the intermediate prairie points if this $1\frac{1}{2}$ rule continues in the bill arising from a possible hiking of the so-called competitive rates now in existence to Vancouver. It seems to me we had it laid down in the committee yesterday, I think it was, that there would never be any objection by the Board of Transport Commissioners to the railways raising a competitive rate, at any rate up to the ceiling of the established rates. Would that not be immediately reflected even under bill 12 in a rise in the first instance to the Pacific coast, to Vancouver? Would it not then be reflected across the board everywhere west of Winnipeg?—A. As far as being reflected across the board west of Winnipeg, Mr. Mutch, I think my answer would be this: If the transcontinental rates were increased, which is the starting point of your discussion, then it might be that the railways would lose some of that traffic because if they increased them beyond the point where their competitors would carry it, they would lose the traffic. In that event and assuming that that competitive traffic had been compensatory, that is, it had paid the actual cost and a little more, then that little more would be lost and that little more, to protect the over-all revenue position of the railway, would have to be obtained elsewhere, which would result in those rates other than the transcontinental rates having to go up. I do not know whether that answers your question or confuses the issue.

MR. GREEN: I understood Mr. Shepard to say that if the transcontinental rates went up that increase would affect not only the Pacific coast but would also affect the rates right across the prairies.

By Mr. Mutch:

Q. It would be $1\frac{1}{2}$ times 1, and 1 would be higher than it would be formerly. It looks to me like simple arithmetic.—A. That is quite right.

Q. Without adding to the arrangement which we suspect existed, namely, that we pay the losses in the prairies or have done, would this not be a method under this bill without going to the Board of Transport Commissioners? Could not we get conceivably a general increase first in the competitive rate to Vancouver and then add one-third of that increase to the rest of us?—A. Well, I think perhaps I might not understand you, Mr. Mutch, but I do not think the $1\frac{1}{2}$ rule would have the effect of forcing your intermediate rates up $1\frac{1}{2}$ times the transcontinental rates in any event.

Q. In other words, that would be the limit but it would not necessarily follow?—A. There might be some rates to intermediate points and I think right now to Winnipeg, which do not amount to $1\frac{1}{2}$ of the transcontinental rates. Those rates would not go up to $1\frac{1}{2}$ of the transcontinental, not under these provisions.

Q. But west of Winnipeg they could?—A. Well, they would not go up. They would either stay where they are or go down to $1\frac{1}{2}$ of the transcontinental level.

Q. In the first instance when this bill becomes law?—A. Yes.

Q. But if subsequent to this bill becoming law the competitive rate to Vancouver would rise, we will say, 20 per cent—that is about the normal asking increase—then what I am concerned about is, would that 20 per cent be reflected in the rates to the rest of those points?—A. I see your point. If the $1\frac{1}{3}$ rule was put in at the present level and the transcontinental rates were not changed, then intermediate traffic would be limited to $1\frac{1}{3}$ of those present rates?

Q. Yes.—A. And then transcontinental rates go up 20 per cent and as at that moment the railways would be free to raise intermediate rates to a higher limit. It would still be $1\frac{1}{3}$ of the new transcontinental rates.

Q. And I am correct in my supposition, am I not, that there is nothing to prevent the railways immediately bill 12 becomes law, or any time thereafter they may so desire, from raising a competitive rate?—A. That is right. I think Mr. Evans made that clear yesterday.

Q. That was my understanding; I wanted to be sure I was right.—A. That is quite right.

Q. To see whether or not that is not only the immediate effect of bill 12 but if the $1\frac{1}{3}$ remains, a potential threat to that area certainly which arises west of Regina?

Mr. GREEN: You did not get an answer to that.

The WITNESS: I am agreeing with it.

By Mr. Laing:

Q. Is it your contention that the railways in order to maintain competition in the prairies would have to raise their transcontinental rates by use of this factor of $1\frac{1}{3}$; in other words, if it were operating today under transcontinental rates and multiplying their intermediate places by $1\frac{1}{3}$ they would lose a great deal of revenue, is that so?—A. I do not know how much they would lose; they would lose some. I think Mr. Evans was asked that yesterday and he could not answer it and I certainly cannot if he cannot because I have not got the resources of the railways at my disposal.

Q. It would be very interesting to know if it is available.—A. It is bound to be some, from illustrations that are in the royal commission's report.

Q. Then, certainly we could have a figure or an estimate?—A. I am sorry I cannot give it to you because I have not access to the railway figures.

Q. Would it be as much as the \$7 million that we are paying?—A. Any answer that I might make to that would be absolutely a wild guess.

Mr. MUTCH: We have enough guesses in the rate structure now without putting in any more.

By Mr. Argue:

Q. Mr. Mutch said if the $1\frac{1}{3}$ provision came into effect it might decrease the railway revenue subsequently to where they would need a 20 per cent increase in those other rates. But, according to the two illustrations that Mr. Shepard has given us, the people in Edmonton even if that happened would still be better off than they are now?—A. That is absolutely right.

Q. Because the rate to Vancouver is \$1.48 and the rate to Edmonton is \$2.91?—A. That is right.

Q. Roughly right?—A. Yes.

Q. So that the $1\frac{1}{3}$ provision even though it reduced revenue to some extent and subsequently resulted in a general increase of all the rates would still help a certain area in western Canada?—A. On certain products, that is perfectly true.

By Mr. Green:

Q. Mr. Shepard, about these transcontinental rates, I understood you to say that the Board of Transport Commissioners would have no control whatever over

the raising of the transcontinental rates providing that raise did not bring them up to the ordinary class rates—above the ordinary class rates, so that the raising of competitive rates or the doing away with competitive rates is in effect entirely in the hands of the railways?—A. It has always been so and it must be so, I think, even though I do not always agree with the railways, because if it is otherwise, the railways are not free to meet competition.

Q. And the present transcontinental rates are based on competition?—A. Presumably. That is why we want the Board of Transport Commissioners to be given the power to inquire into it.

Q. Do you believe that they are?—A. Personally, no, but my personal opinion, I do not think, is worth too much in these circumstances.

By Mr. Mutch:

Q. At any rate it would be a consolation to you to know that a great many of us think so too?—A. Yes.

By Mr. Green:

Q. If this arbitrary ceiling of one-third over transcontinental is brought into effect there is nothing whatever to prevent the railways either increasing their transcontinental rates or wiping them out altogether?—A. That is quite right, Mr. Green.

Q. The railways are obviously going to lose revenue if this provision becomes law?—A. I think that is so.

Q. They will naturally have to make up that revenue in some way or another?—A. I would expect so.

Q. So we have every reason to expect that the transcontinental rates will either be raised or wiped out?—A. That is one solution and I think it is one that I am sure the railways will look at very carefully. The other solution is to raise our rates in Manitoba.

By Mr. Laing:

Q. What do you have to say, Mr. Shepard, about section (3) of 332A concerning the powers of the board on that particular point? They seem to be exceptionally broad.—A. You mean you feel that perhaps the wording of subsection 3 would permit the board to exercise some control over competitive rates?

Q. Almost any powers, I would say.—A. I agree with you and that is what we want but it is spelled out in some detail under section 331, and we are very much in favour of that section. We want the board to supervise competitive rates and supervise them as closely as they can.

Q. A large increase in transcontinental rates would be contrary to the national freight rate policy?—A. I would not think so, sir, because the national freight rate policy is pretty closely defined as meaning an introduction of a uniform class rate mileage scale and that is something quite apart from any competitive rate in the rate structure.

Q. These generalizations are sometimes more beneficial than when you separate the things?—A. I am inclined to agree with you on that.

By Mr. Cavers:

Q. Are you of the opinion that under 331 the competitive rates might not be necessary unless the party applying were able to satisfy the board that all the clauses in subsection 2 were complied with?—A. My answer to that is—and I have read what the Canadian Pacific Railway had to say on that section—the section is permissive; it says “may,” and it does not seem reasonable and I do not think it would commend itself to your committee that the board is going to ask anybody to do something that is impossible. The thought that those are there

gives us heart out in the west and we would not like to see them wiped out at all. We would like to feel free to come in and argue even under a permissive section. If it is not possible I am certainly not going to dispute the railways. If they can demonstrate that it is not possible they should not be required to prove an impossibility.

The CHAIRMAN: If there are no further questions of Mr. Shepard—

Mr. GREEN: Mr. Chairman, I would like to ask a further question.

By Mr. Green:

Q. Mr. Shepard, is there any other provision under the bill apart from 332B which places a statutory ceiling on competitive rates?—A. No. I would not say that 332B places a statutory ceiling on competitive rates.

Q. Well, a $1\frac{1}{3}$ ceiling?—A. The $1\frac{1}{3}$ aspect does not apply to competitive rates; it applies to intermediate traffic.

Q. Well, perhaps I have not worded it correctly, but is there any other ceiling of that type placed in the bill?—A. Not in this bill before the committee.

The CHAIRMAN: The ceiling, Mr. Green, is just on the one-third, it is not on the transcontinental rates. It is just on the one-third mark-up.

Mr. GREEN: Yes, that is true.

By Mr. Green:

Q. Where are the bulk of the competitive rates in effect?—A. Well, there again I can give you a general answer, Mr. Green.

Q. Well, you state on page 3 of your brief:

These low competitive rates have always been particularly numerous in certain parts of Canada.

Now, you are delightfully vague about that in your brief. I would like to know what those parts of Canada are?—A. It would require fairly exhaustive economic evidence but I can tell you that there are far more competitive rates moving traffic in total tonnage in Ontario and Quebec than there are in other parts of Canada.

By Mr. Mutch:

Q. All the rest of Canada?—A. All the rest of Canada, probably. That is about as far as I can go in a general way.

By Mr. Green:

Q. There is to be no provision affecting those competitive rates similar to the provision which is now being suggested to carry rates to the Pacific—is that right?

The CHAIRMAN: Oh, no, Mr. Green.

Mr. GREEN: Let the witness answer. You do not need to interfere in it.

The CHAIRMAN: That is not a correct statement of facts. You made a statement of facts.

Mr. GREEN: Let the witness say it.

The WITNESS: My answer to that, Mr. Green, is that section 332B, which I am opposed to and which I presume British Columbia may be from the questions you have been asking me, does not place any different restrictions on competitive rates than already exist for other parts of Canada since the transcontinental rates are the second largest group of competitive rates in Canada, the largest one being in Ontario and Quebec and next in bulk being in transcontinental traffic.

By Mr. Johnston:

Q. I would just like to get a point cleared up. From Mr. Green's questions to you he seemed to fear that Vancouver would lose the unreasonably low rates which they enjoy now through the transcontinental rates, but isn't it a fact that even though the $1\frac{1}{3}$ rule is applied that would not stop the railways from increasing the transcontinental rates at all, would it?—A. No.

Q. In that respect, then, it would not stop the railways from increasing their revenue even on the transcontinental rates?—A. No, it might encourage them to take a pretty close look at them, though.

Q. Well, that might be a good thing.—A. I think it might.

Q. Because Vancouver has enjoyed an unreasonable position in regard to transcontinental rates and Mr. Green is afraid they will lose that.

By Mr. Green:

Q. Perhaps there will be some similarity between the transcontinental rates and the Crow's Nest Pass rates in Alberta?—A. The transcontinental rates are, of course, not statutory.

Mr. ARGUE: Mr. Chairman, I have one final question before Mr. Shepard leaves.

By Mr. Argue:

Q. If we assume that the stand taken by the maritimes yesterday, who agreed to put the Board of Transport Commissioners in a position in general to see that their lower arbitraries are maintained and if the committee should agree to your suggestion that the $1\frac{1}{3}$ provision be removed from the bill, then I would take it that freight rates in Canada to that extent in the future would settle that much more equally the present rates; in other words, what you would be doing in that way would be increasing the exemptions to equalizations—you would be maintaining the low arbitraries for the maritimes, you would be maintaining the very high rate to Edmonton as compared to Vancouver and to that extent you would defeat the national freight rate policy as set out in 332A?—A. I cannot agree with the way you have stated that. You say the very high rate to Edmonton as compared to Vancouver. You are not comparing like with like. You are comparing a mileage rate which is what we have in Manitoba, for example, with a rate fixed due to the competitive factor, and if you compare Edmonton rates today with Winnipeg rates today you will find that they are not higher than they should be in view of the longer mileage, and we are not complaining particularly about our rates. We do want a national freight rate policy as spelled out in this section, and we do not consider that what we have suggested with regard to the maritimes is going to have any serious effect on the implementation of the policy which we have been fighting for—if I may use that word—for some years.

Q. But it would still leave lower rates in the maritimes and I am not objecting to that now, but it would still leave the lower arbitraries in the maritimes as compared to freight rates in other parts of Canada?—A. I would agree with you on that on this basis, that if the Board of Transport Commissioners can find that the existing freight rate set-up, so far as the maritimes is concerned, is justified, then I agree with you, but if they say it is not justified by proper rate-making standards, then I cannot agree with you.

Q. All I am getting at is, if we are going to give exceptions to this bill then we are going to defeat the purpose of the bill which is a general equalization of freight rates?—A. I understand your point, but I do not share your fears.

By Mr. Byrne:

Q. I am very impressed by the witness who gives very straightforward answers, but he has given a personal opinion on one specific question in which

he says that the transcontinental rates, in his opinion, are not affected by competition, that is, that competition does not dictate the individual rates. Now, if that is a personal opinion, how would you justify that opinion and, if so, on what basis are the transcontinental rates set?—A. Well, there is a historical background, of course, with which, I think, we are all familiar. The opening of the Panama Canal did encourage shipping from Montreal and Halifax, principally, to Vancouver through the canal, and at that time the railroads in order to meet the competition, to keep from losing a substantial portion of their traffic, had to introduce transcontinental competitive rates, and we have no quarrel with that.

Subsequently, and bringing it right up to the moment, my understanding—and it is only general information—is that there is no shipping available in any quantity for that purpose today.

Now, before the royal commission a ship was produced that someone said had sailed and we had a good deal of fun over that ship. We called it the phantom ship from Montreal to Vancouver, and the consist of this ship was produced in the court room in Vancouver and the only two items on it I remember were toilet paper and bird seed. There were others, of course, and my friend Mr. Frazier will be speaking later on the actual water competition.

By Mr. Mutch:

Q. No squirrel food?—A. But the competition, gentlemen, seemed to be very much lower then and I do not think it will get any greater. But there is one thing I think your committee has to give consideration to, and that is the transcontinental competitive traffic in the United States. There are ports in the United States, both on the east and west seaboard, and the railroads that span the country down south are permitted by the Interstate Commerce Commission to compete ratewise with that ocean shipping, and in some places that transcontinental traffic comes right up through the United States and the Canadian railways obviously must be in a position to compete with the American carriers out of Vancouver to Seattle and east on the American lines and in at Windsor. They must be placed in that position or they will lose substantial traffic. So even though all the water competition which originally existed does not exist to any extent today, it still does exist further south, which has a tendency to depress American transcontinental rates.

This is a matter which we say should be investigated by the Board of Transport Commissioners as provided by section 331 in this bill to make sure the rates are justified.

By Mr. Byrne:

Q. It has been suggested here that Vancouver is receiving unreasonable rates. In your opinion how much benefit comparatively speaking does British Columbia derive from the Crow's Nest Pass rates as compared to Alberta and Saskatchewan?—A. I am sorry I cannot answer that question. It is a little bit technical for me. I do not know if Mr. Moffat would attempt to answer it.

The CHAIRMAN: Perhaps one of the railway witnesses would be able to answer that question.

By Mr. Gillis:

Q. Before Mr. Shepard leaves, I would like him to answer one question for me. He says he agrees with the principle of this bill to bring about a national freight rate policy in this country—equalization of rates. Now, I would like to ask this: While our flow of trade is east and west, is equalization of freight rates in this country a practical proposition or just a good talking point?—A. Well, we think it is practical, Mr. Gillis. I think—and I am speaking personally again rather than “we”—but I do think that there have been tremendous misunderstandings and unhappiness created in the two edges of our economy.

In the maritimes they feel that they have got a just cause and we in the west feel that we have a just cause. Now, if a uniform mileage class rate scale could be developed instead of splitting the country in half in our freight rate structure—spelled right out in that rate structure—I think this is a very great advantage for national unity and I think we have to consider that because it is a national problem.

Q. It is not possible of achievement?—A. No one with any experience would say that it is possible of achievement, but it is possible to a far greater degree than in the past.

Q. Well, isn't it true, then, that what this bill means is that rather than equalization as such it is designed to remove discrimination and provide a more equal rate throughout the country?—A. You are quite right.

Q. I think all this talk of equalization is not quite correct?—A. I agree with you.

The CHAIRMAN: Mr. Shepard, I would like to thank you on behalf of the committee for your very helpful presentation.

The WITNESS: Thank you very much.

The CHAIRMAN: We now have before us the Saskatchewan group composed of Mr. M. A. MacPherson, K.C., general counsel; Mr. F. C. Cronkite, K.C. and Mr. George Oliver, their economic adviser. Mr. MacPherson?

M. A. MacPherson, K.C., General Counsel for the Province of Saskatchewan, called:

The WITNESS: Mr. Chairman and gentlemen of the committee, I have no written brief. I will be speaking to the record and may I say in opening that on behalf of the government of the province of Saskatchewan consideration has been given to the amendments to the Railway Act that are proposed in bill 12, and may I say at the outset that we are asking for the deletion of no section and that we will be asking for certain amendments to one section to which I will refer.

I think the committee will realize the great task that the Royal Commission had before it and will realize that the report of the Royal Commission was dictated by common sense and the results of their efforts is represented in the recommendations that they have made. Perhaps following up a question that was directed by Mr. Gillis as to equalization I might say in the first place that when you use the term "equalization" there are two senses in which the term can be used. The term can be used in a sense that has a mathematical connotation, that is, the suggestion that throughout Canada, in every part of Canada, all commodities would move at the same rate over the same distance.

Now, that has never been the position taken by the province of Saskatchewan. We quite realize that such an interpretation of the term "equalization" would be quite unrealistic. Very naturally you must divide the freight traffic into classes, and once you divide the freight traffic into classes then it will follow that more in one class at a higher rate probably will move in a certain area than will move in another area. In that case you immediately find that your mathematical exactitude is destroyed and, furthermore, in so far as the freight rate structure is concerned we must be realistic enough to recognize that we must have competitive rates. Once you have competitive rates and recognize the necessity of competitive rates in a freight rate structure, then of necessity it is mere pretence to say that you can have absolute equalization.

But there is equalization in a broader sense—an equalization which I think is being attempted here and that means that you are going to have a structure, a freight rate structure which is modified by certain factors. I think this

committee will realize, as I am sure the royal commission realized, that having regard to the great sprawling character of our country that Canada is not a very easy country to govern or provide legislation for, I think consequently when we consider equalization that it is necessary for us to consider the factors which will give the broad meaning to equalization, I think when we consider the broad meaning we find that one of the factors will be a factor which was stressed yesterday by the maritimes—historical events as they affect the area. And then I think you must figure also in the broad sense—in the broad definition of equalization—the unequal impact of the national policy on various areas as well as on the national economy. Then you must also give consideration in arriving at the broad and resulting definition of equalization geographical handicaps of an area as they will best fit into the national economy. And all of these will destroy the mathematical concept of which I spoke at first, and make it essential that devices be introduced and be used as they have been used and probably will be used by the Board of Transport Commissioners again, such as arbitrary mileage, arbitrary rates and other devices such as we find compensating an area such as the Maritime Freight Rates Act today and as in section 18 of the bill here there is an effort being made to compensate a particular portion of the country.

Now, may I say this to the committee, that in Saskatchewan we realize this, that when the bill is passed—if it is passed, and we strongly support its being passed—if it is passed then the work really begins. The Board of Transport Commissioners has a job of great magnitude to do, and it is important to Canada, to every part of Canada that the board be a very strong and a very competent board. It is most important that the board have available to it technical assistance of every type. I noted what was said in parliament relative to the technical assistance today. We realize in what measure the economic branch has been extended. We are not satisfied, Mr. Chairman, that the accounting branch has been sufficiently strengthened or that the traffic experts are as numerous as they should be. We realize that there are some very good men in the department as experts today, but the routine work with which they are engaged and calling for their time in the board would mean that it would be exceedingly difficult for the board competently to be advised to deal with such a terrific problem as they will have to deal with in the general freight rates inquiry.

Now, I just want to say to this committee: We are concerned primarily with freight rates and I do not think that the average Canadian realizes the load that freight has to carry. The railways will in this year of grace 1951 probably lose \$50 million or more in passenger traffic and freight has to carry the load. If there are other railway services that are being given at a loss, freight must carry the load and consequently it is a matter of primary concern to us who live in the fringes, far removed from the sources of supply and markets—those of us who have to be concerned with the long haul traffic, that the question of freight rates receive the most serious consideration both by parliament and of the Board of Transport Commissioners as well.

Yesterday we heard from the maritimes and I agree with my friend Mr. Shepard of Manitoba that we felt that so far as they were concerned their position was secured by the bill as it is. As I understand it and as you, sir, have stated it, this committee is in no sense sitting as a court of appeal from the royal commission, but I think it would be interesting, therefore, for the committee to look at page 151 of the royal commission's findings, and particularly its recommendations on arbitraries.

There was some reference to pages 150 and 151 yesterday, but the recommendation was not read. This was the recommendation of Chief Justice Turgeon:

It is not advisable (after dealing with arbitraries) to amend either the Railway Act or the Maritime Freight Rates Act to provide for constant arbitraries over Montreal. Each case concerning arbitraries should be decided on its own merits under existing legislation.

Consequently, if this committee is concerned with carrying into effect the recommendations of the royal commission that recommendation is very much in point and would indicate that the royal commission felt that there was no necessity for any amendment to either the Railway Act or to the Maritime Freight Rates Act, that each case concerning arbitraries should be decided on its own merits under existing legislation.

Now, that is the position as we felt it to be. I think again we have a situation where the proposal of the railways as filed with the Board of Transport Commissioners under P.C. 1487 had this very definite result that it alarmed the maritimes and alarmed Winnipeg and Vancouver and various other parts of the country—a proposal which it was indicated by the maritimes yesterday they did not accept, a proposal which Mr. Shepard indicated this morning he did not accept, and a proposal which, I suggest, we do not accept. At the same time it has resulted in the maritimes feeling that there is occasion for alarm and quite in accord with Mr. Shepard if it will take care of the situation throughout the maritimes, carry out that recommendation of the royal commission, then so far as Saskatchewan is concerned Saskatchewan would have no objection to that being done, realizing as we do that in the maritimes there is another regional problem, a regional problem such as we have to face ourselves and that naturally puts us in the position where we say that applying the broad definition of equalization to which I have referred where you are concerned with these various factors that I indicated, then this matter can be disposed of by the Board of Transport Commissioners and by the Board of Transport Commissioners as the proper authority to deal with it.

By Hon. Mr. Chevrier:

Q. Mr. MacPherson, might I interrupt you? I was going to ask if you cared to make any observation on the fear which the maritime provinces have concerning rate groupings as well as the arbitraries?—A. Well, we do not think that their fear is justified. We feel that their fear is not justified but at the same time I can understand why business men would be alarmed, having regard to the proposal they found on their desks.

By Mr. Brooks:

Q. Might I ask, would you have any objection to the amendments as suggested by the maritime representatives yesterday being inserted in the bill to cover that point?—A. When you ask if I have any objection to an amendment I want to see the amendment first before agreeing to it.

Q. We had it in general terms.—A. I would have no objection to such an amendment as I have indicated as being consistent with the Report, which I think would absolutely protect the rights of the maritimes and which is consistent with the report of the royal commission upon which you are not sitting in appeal. Our position is the same on grouping as on arbitraries.

One other thing I want to say in connection with section 332, the equalization section. We have now under the Railway Act section 314, which is a very important section. The committee must bear in mind that the board has been in existence for a great many years and that there have been some very able men sitting on that board. While it is an administrative tribunal and con-

sequently while the principle of *stare decisis*, that is, being bound by your own judgments, does not apply, they have built up a very wide jurisprudence of their own.

Now, under section 314 you will find that—

All tolls shall always in substantially similar circumstances and conditions in respect of all traffic of the same description and carried in or upon the like kind of cars or conveyances passing over the same lines—

Now, under 332A those words "same lines" is changed to "passing over all lines." That is certainly throwing out the whole jurisprudence that has been built up on the question of discrimination.

I could quote to you from decisions of the board as to the position that the board because of its own jurisprudence has found itself in on the question of discrimination. May I just read a few words which will make my point clear, from the decision of the board on March 30, 1948, the 21 per cent case, and where it says:

A difference in rates may be discrimination, but not unjust discrimination of the character forbidden by the Railway Act. The interpretation of the Act in this respect, on the position taken by the board on the broad issue of unjust discrimination, has been set out in a great many decisions of the board and may be summed up by the following citations from two or three cases—

And he cited Chief Commissioner Mabey:

The Railway Act, as I understand it, authorizes and justifies discrimination. It is only a undue, unfair, or unjust discrimination that the law is aimed against.

Now, we feel that so far as the section as we have it now will eliminate much of that jurisprudence. Parliament will have spoken and that is one reason why, Mr. Chairman, on behalf of Saskatchewan we ask you to accept the section as you have it here in the bill rather than the section as suggested by our friends of the Canadian Pacific Railway. Because it might be argued that that section as introduced with amendments would provide for a continuation of a jurisprudence which we think has outlived its usefulness and which is one of the reasons why we support the principle of equalization as we find it.

Now, dealing with some other points, I think it is interesting for the committee to know something of the mileage—of the two great railway systems in Canada. The Canadian Pacific Railway has total mileage of 16,336. Of this, 5,672 is east of Fort William, and 10,664 is west of Fort William, that is to say, practically twice the mileage of the Canadian Pacific is west of Fort William.

The Canadian National has a mileage of 22,150 of which 11,739 is east of Fort William, 10,419 west of Fort William, that is, slightly more Canadian National mileage east of Fort William than west of Fort William. I give these figures because I think they will have a bearing on what I will have to suggest in connection with some of these sections.

Now, taking section 328 on standard freight tariffs, we are quite in agreement with Manitoba in that regard that the standard freight rate tariff should be abolished. Actually, the movements on these tariffs of traffic were not heavy and one of the purposes that I always felt and urged that they served was that the railways under the present Act had a playground on which they could operate and that the mere raising of rates was to extend the area of their playground. So far as standard freight tariffs are concerned I do not think it is going to hurt the railways any should they be removed, but I notice what Mr. Evans said on the matter of reparations. Well, certainly so far as Saskatchewan is concerned it is not anxious to see any rash of reparation actions against the railways and

they are actions which we feel are not justified. If there is anything to that then we should not object to any amendment to protect them from reparations actions such as that.

Now, in 329 the suggestion of the bill is the imperative "shall". Our friends of the Canadian Pacific suggest the permissive "may". We suggest the imperative "shall" and we suggest that very definitely.

Then, you have in 332A our friends of the Canadian Pacific suggesting that it be "a scale or scales," that is, they do not want one scale, as suggested by the section, but they suggest "scales," and I think it may be of interest to the committee to realize why. Self-interest cannot always be quite eliminated.

Just yesterday in answer to a question of Mr. Gillis the Canadian Pacific gave certain figures on canned goods carloads which the committee will have before it and you will note there that the present fifth-class rate from Winnipeg to Regina, a distance of 357 miles, is 92 cents. The rate from Hamilton to Montreal, a distance of 373 miles, is 69 cents. That is, the western scale is above the Ontario-Quebec scale—92 to 69.

Now, I can understand why our friends of the Canadian Pacific want "a scale or scales" appearing in that bill, bearing in mind that twice their mileage is in western Canada, but I am suggesting that so far as the province of Saskatchewan is concerned the province of Saskatchewan wants one scale and does not want the alternative which would permit any of these inequities to exist.

Now, taking that same mileage, the present position is that the prairie distributing scale is above the Ontario-Quebec schedule A on class 1 today 41.6 per cent; above class 2, 36.7 per cent; above class 3, 29.4 per cent; above class 4, 14 per cent; above class 5, 29.4 per cent; above class 6—and this concerns us very much in the west, agricultural implements, 19.4 per cent. And it is only when we get down to sand and gravel—the 10th class, sand and gravel and lumber and various items that are carried under the 10th class that we are in a position where there is any advantage in the western scale over the eastern scale. And, consequently, we say that in so far as the two sections that are before the committee are concerned that without hesitation we ask you to accept the section as in the bill.

Now, I come to 332B, which has been discussed. I must disagree with my friends from Manitoba in this, and we are going along with the section. We find that Mr. Evans, while he watered it down later at page 48 of the record in answer to Mr. MacDonald, admitted that the rates now in force were profitable and if they are profitable to them then there seems no reason that any intermediate point should pay more than one-third more. Consequently so far as we are concerned we are going along with the section and asking the committee to recommend it.

Now, we come to sections 379 and 380. These are two sections that our friends on the railways wish amended and we wish to say to the committee that we want the phraseology adopted in the bill that is before the committee. It is a very simple amendment they want; they want the board only to have an opportunity of looking at the railway operations of the Canadian Pacific Railway.

Now, Mr. Chairman, back in 1881 when the Canadian Pacific came into being it was a railway company and it was so incorporated. At the time that it was supported by moneys and by 25 million acres of land it was a railway company and today you have a situation where it either owns or controls 100 companies. It is in a sense a sort of a transportation drug store.

In that position, there is bound to be a conflict of loyalties between the corporation at one time in its capacity as a corporation and in its position as providing a rail service to the country. While there may be no need to require it, bearing in mind the practice of the railways to maintain a common pot, as

they say themselves, the Board of Transport Commissioners should have the right to look at all its operations as is provided in the sections 379 and 380 of the bill. We ask that it be left as it is rather than that it be restricted to rail operations.

Now, I come to that section, Mr. Chairman, where we feel that there must be an amendment, and that is section 18 of the bill. That has to do with payments to railway companies.

I am reminded, Mr. Chairman, that in going through the sections I did not refer to 331, that is in connection with competitive rates, and we very strongly support the section as it is in the bill. We feel that the railways are unduly alarmed at what will be required of them under that section and we feel that with the section as it is, what we are convinced were abuses particularly during the period of the depression will not occur again. We feel that what is set out there is set out as a recommendation of the royal commission after much argument and much evidence before it and that this committee should not take lightly that particular recommendation. The royal commission had a great deal of evidence given to it on the question of competitive rates and a great many suggestions made to it. This is the Commission's considered opinion and we ask your committee to recommend that considered opinion to parliament.

Now, as to section 18, which is the section dealing with the \$7 million, we feel that there are defects in it. We note that the minister has realized that, in that an amendment is in course of preparation. In the first place I want to say this, that I think that it was the view of the royal commission that the whole sum of \$7 million would be available for this purpose.

That brings forth the issue as between the Canadian National and Canadian Pacific railways. We do not know; we would judge that probably it will be divided equally between them, but if \$3,500,000 is paid to the Canadian Pacific Railway, then that \$3,500,000 having regard to income tax—and you gentlemen know something about income tax the same as the rest of us—that \$3,500,000 will not go as \$3,500,000 to the benefit of the freight users as it was intended it should go. There will be a deduction and we are suggesting that there be an amendment to that section which will make it clear that the whole \$3,500,000 goes without any incidence of income tax so that it will not be treated or regarded as income which is subject to the application of income tax, that the freight user will get the benefit of the whole amount.

By the Chairman:

Q. Might I interrupt you just there, Mr. MacPherson? If the entire \$3,500,000 subsidy to the railway company is immediately reflected in a reduction in freight rates, would not then the net profit position of the company be exactly the same as it was before and without this question of income tax arising at all?—A. Well, I think it does arise, Mr. Chairman, for the reason that the royal commission has recognized that some device must be employed to reduce rates to the people of the west. Now, as it is paid to the railway we do not want it to be paid to the railway so that we only actually get half the benefit of it with the income tax rate being 48-6.

Q. Of course not; but is it not true that taxwise a company only pays corporate income tax on the net income?—A. That is right.

Q. Well, that being so, if the entire \$3,500,000 is immediately reflected in a reduction in the freight rates would not the net income position of the company remain unchanged?—A. Well, Mr. Chairman, this is the position we are in with income tax, that in respect of income on rail earnings the Canadian Pacific pays no income tax; the freight payer pays it. A formula is applied by the Board of Transport Commissioners in determining requirements. If income tax is increased then it is not paid by the Canadian Pacific Railway but it is paid by the freight

payer of this country on net rail earnings in freight rates and there is another hidden tax and another new imposition on him. For instance, the surtax of \$7 million, an increase in respect of rail earnings tax which they would have to pay in 1951 they are asking us as freight payers to pay this as well. I mean they are in a position different from the individual in that somebody else is paying their taxes and that is the freight user.

Q. Well, shouldn't we see to it that the net revenue is not increased and that the benefit goes to the proper beneficiaries?—A. That is exactly what we want. We want this \$7 million to go to the beneficiary for whom it was intended and in that respect we are making what we think is a reasonable proposal to this committee.

Q. Then may I ask one more question and I do not want to be unreasonable. If parliament makes it certain that the proper beneficiaries will receive the full \$7 million subsidy is it not then true that this tax feature does not crop up at all?—A. I think that would be true.

Q. Well then, should not that be our goal?—A. That should be your goal, but what I am thinking of, Mr. Chairman, is this—further argument before the Board of Transport Commissioners. We have had them before, but certainly the goal at the moment is the question of the \$7 million, the full \$7 million without deduction directly or indirectly for income tax going to the beneficiaries and the beneficiaries, as you have alluded to them, would be the freight users who are intended to be assisted.

By Hon. Mr. Chevrier:

Q. You want that statutory?—A. I want that statutory, yes. And what is more, Mr. Chairman, I want written into the section a guarantee that this money is to go for this purpose, that is to say, that it will there be set out who the beneficiaries are.

Q. Well, can that not be accomplished without the use of the words "free of income tax"?—A. What I have suggested in the matter of income tax would be a special section of the bill.

Q. Well, even if it were a subsection of the bill I am sure that you realize immediately the position in which it would place the government with reference, for instance, to the Maritime Freight Rates Act. There is there a preference paid to the Canadian National and the Canadian Pacific where in due time there would be a demand for a tax free amount of that 20 per cent?—A. Supposing there was—and I can see a reason for urging that that be true and that that be treated as a tax free item in the same way—

Q. Well, it would be.—A. Why should it not be? Why should we, if that is by way of subsidy, why should we as freight payers be required to pay the income tax on that when it is really a subsidy and should be treated as something apart?

Q. I am not suggesting that you should, but what I am suggesting is that if you were to put in the bill that this should be free of income tax it is making the position very difficult for the government because I am thinking that the day may come when we will have to ask the Canadian National Railways to pay income tax, and then that places an entirely different colour on your argument, I think.—A. Not strictly on the question of the income tax. My whole argument in this connection is based on the fact that in the Board of Transport Commissioners rates are fixed at the moment with the Canadian Pacific Railway as the yardstick and we have argued that as of the moment the Canadian National Railways cannot be taken as the yardstick. The day may come when the Canadian National will pay income tax when the question of a yardstick will change, but what we are thinking of is the situation we are faced with now, and that is why we say that the whole question of income tax is one not only

in respect of this subsidy but in respect of all utilities. When we are called upon to make up a deficiency we have to provide almost in freight revenue double the amount of the deficiency.

By the Chairman:

Q. But you do concede that if parliament achieves what we want to achieve, namely, that this whole subsidy goes back to the proper beneficiaries, you must then admit there is no change in the tax position of the company?—A. The net would not be increased, but what we are concerned with primarily is that the \$7 million go to the beneficiaries.

Q. There could be a reduction in freight rates of \$7 million, exactly paralleling the subsidy?—A. Yes.

Q. Then, isn't that where we should hit the ball?—A. Yes.

Mr. MUTCH: Except this, that you might get an increase in freight rates to compensate for it.

The WITNESS: That is exactly the position we are in.

By Hon. Mr. Chevrier:

Q. Then, may I say this: You have been arguing all along—and I agree fully with you—that the recommendations of the commission should be carried out and that this Act does carry that out, but nowhere in the recommendations is it stated that the \$7 million should be tax free.—A. No, knowing the good judgment of the commission I think they intended that, but I cannot find it.

The CHAIRMAN: I think it is up to parliament to make sure that it all goes back to the people who are intended to benefit.

By Mr. Gillis:

Q. Is a subsidy to a corporation shown on their balance sheet as income?—A. It would be income, yes.

The CHAIRMAN: It would be income, Mr. Gillis, and if there was no cross entry of a reduction in freight rates it would be taxable income, but my point is if a paralleling reduction in freight rates occurred then there is no change in the tax position and I am interested to see that that reduction does go back to the folk who are intended to receive it.

Mr. GILLIS: Mr. MacPherson is arguing—and I think so too—that there is not any guarantee that that \$7 million will not be shown as income by the Canadian Pacific as taxable.

The CHAIRMAN: No, gross income is not taxable; it is net income.

Mr. GILLIS: Well, the \$3,500,000 will be reflected in the net income.

The CHAIRMAN: Not if there is a corresponding rate reduction.

Mr. GILLIS: If there is a reduction and it is the "if" that Mr. MacPherson is arguing on.

The WITNESS: What I am proposing is—I will leave income tax alone, but I have suggested an amendment to the chairman which would make provision for this question of income tax and it would contain a guarantee that the chairman has referred to that would result in relief to the beneficiaries.

The CHAIRMAN: It is now 1.00 o'clock and if it is convenient to all to break off now we will adjourn until 3.30 and you may leave all your papers on the desks, if you wish, because the room is locked, up.

The committee adjourned.

AFTERNOON SESSION

The CHAIRMAN: I apologize for being late, gentlemen.

M. A. MacPherson, Esq., K.C., General Counsel, Province of Saskatchewan

The WITNESS: Mr. Chairman and gentlemen, I do not think there is very much more that I have to add to what I said this morning. I will refer again to section 8 of the bill to which I referred at some length this morning and reiterate that so far as Saskatchewan is concerned it feels that there should be that language used in the bill which would make it clear that it is not the bridge so called that is being subsidized, but the men and women, the people west of there, who are using it. Under the Maritime Freight Rates Act, of course, consideration is given in respect of freight coming out, not in respect of freight going in. Under the suggestion here it would be the freight in or out. I have no instructions from my province in any way to oppose that suggestion. I emphasize again that the mere fact that there is that so-called bridge referred to in the commission report, and referred to in debate and discussion as a bridge, that it is not the bridge that is being subsidized, it is the users and I am concerned, and my province is concerned that the section as ultimately drawn, and the section as it will ultimately find itself in the Railway Act will represent that view.

The CHAIRMAN: You believe that it should be considered as a toll free bridge, do you?

The WITNESS: Yes, to put it that way; I think I do, but it is not the bridge that receives the subsidy.

Now, I think there is nothing more that I have to add, unless some member of the commission has any questions to ask me.

The CHAIRMAN: Are there any questions?

Thank you, Mr. MacPherson. On behalf of the committee I would like to extend to you and to your associates our thanks for your very helpful presentation.

Gentlemen, we now have from Alberta, Mr. J. J. Frawley, K.C. and Mr. K. J. Morrison.

J. J. Frawley, Esq., K.C., General Counsel, Province of Alberta, called.

The WITNESS: Mr. Chairman and gentlemen of the committee, I am appearing on behalf of the province of Alberta.

I want to put first things first. Alberta is in favour of this Bill. If the Canadian Pacific and some others had not come forward to criticize this legislation and recommend some alteration in it, I would have been content to have said no more than that I was content to have this Committee recommend its enactment. But in the face of the criticism that has been levelled against some parts of the Bill, parts which, after forty years of injustice, bring some relief to Alberta, I have some observations to make by way of answer to the submissions of the Canadian Pacific, and I must add, in answer to the submission made this morning by Manitoba. With respect to my friend from British Columbia—I would have to anticipate to some extent what he will probably say. Of course, I have heard it so often and so many times in so many places.

Now, the first thing that I want to deal with is the

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ABOLITION OF STANDARD TARIFFS—NEW SECTIONS 328, 329 AND 330

1. Mr. Evans complains that Sections 328 and 330 will be repealed and with them will go what were called the standard freight tariffs.

Why does Mr. Evans wish to retain these standard tariffs which, it is admitted, carry less than 1 per cent of the total traffic?

Perhaps I should say in passing that I do not recall in how many places these arguments have been presented before. In any event, Mr. Evans says to the committee that he wants a revision of these standard tariffs to protect himself from claims for reparations; claims for reparations in the courts, not claims for the reparations under the Railway Act; because it is admitted that there are no such claims.

Now Mr. Evans argues that the railways will be exposed to actions in the courts claiming reparations—claims by shippers that they be reimbursed for freight rates paid under tariffs which the Transport Board has held to be unreasonable. Mr. Evans at p. 19 of this Transcript says that the principal point in his argument for the retaining of present sections 328 to 332 is—

- (1) Section 330 requires prior approval of the Board for standard tariffs.
- (2) "Prior approval of the Board is equivalent to a finding that the rates as approved are just and reasonable". (p. 18)
- (3) Therefore, those rates cannot be held unjust and unreasonable retroactively, and so,
- (4) The railways could successfully defend on action for reparations.

Drumheller to Sudbury Jct. CNR W180-H CTC W-2075.
Sudbury Jct. to Toronto CNR C18-4 CTC E-3983.

To convince you how completely unimportant these standard rates, otherwise known as the maximum mileage tolls, are, let me give an instance of one of them. The standard mileage class rate on coal from Drumheller to Toronto, a distance of 1,995 miles, is \$1.94 per cwt. or \$38.80 per ton. Now, Canadian Pacific wants the standard tariffs retained because, they say, such rates carry a presumption of justness and reasonableness which will enable the railway to successfully defend itself against a reparations claim in a court of law.

I suggest to the Committee that to retain in the rate structure rates which carry 1 per cent of the traffic, which have outlived their usefulness and which show a coal rate of \$38.00 per ton to move Alberta coal to Ontario—I might say in passing that the actual rate today is about one third of that and still we think it is too high, although it is about one third of the standard rate—merely for the purpose of providing the railway with a defence against a common law claim for a breach of duty (which Mr. Evans wasn't at all sure would succeed), is exceedingly far fetched, to put it not too strongly.

If any protection is required—and in my submission no case has been made out for such protection—let some simple provision be put into the Act taking away any right of action in the courts.

I should not like to leave the question of the abolition of the standard tariffs without telling you that in my view an additional very good reason for removing the standard tariffs from the rate structure is to get rid once and for all of the proposition that these obsolete rates, merely because they have received a perfunctory prior approval of the Board, are just and reasonable rates. That proposition has always made it very difficult for a complainant to establish that a scale of rates lower than these maximum rates is unjust and unreasonable. In my submission this streamlining of the rate structure was long overdue.

May I say again, with respect to the coal rates from Alberta, which are on a scale lower than the maximum mileage rate, that I haven't any doubt that at some time and place we will be told that they are less than the standard mileage rate and therefore it is pretty difficult to prove that they are not just and reasonable.

Let me make a further observation at this point. In my view, the Canadian Pacific counsel really wishes to retain the large Windsor-Sudbury-Montreal rate group and that is why he argues for the keeping of the group rates, and that involves retaining the Fort William basing arbitrary. I want to make that observation in passing. I will have something more to say about it at a later stage. May I also say, by way of general observation, Mr. Chairman and gentlemen, that I am addressing myself only to three or four parts of this bill; to competitive rates, equalization, the transcontinental rates and a word on the subsidy section, section 18.

Competitive rates—Section 331

2. Canadian Pacific complains that Section 331 dealing with competitive rates will "hamstring" the railways. Mr. Evans made an extensive analysis of the new requirements which would require the railway to furnish a good deal of information to the Transport Board respecting a competitive rate—if, as and when (and I emphasize those words *if* and *when*) the Board required such information.

The heart of Mr. Evans' submission is contained in this statement at p. 33 of the Committee's Transcript:

What you can do and what I have no objection to your doing is to permit that board to say, does that traffic officer exercise his judgment in good faith and with good reason, and beyond that the regulatory tribunal has no function, in my humble opinion.

Mr. Evans was there emphasizing what was so often emphasized by the railways before the royal commission—the necessity of leaving railway management free from almost all regulatory control.

I would ask the committee to examine the considerations which impelled the royal commission to make the recommendations respecting competitive rates which appear at p. 86 of the report and which are carefully reproduced in section 331 of Bill 12. The observations of the royal commission are set out at pages 83 and 84 of the report. In a word, the position of the western provinces was that the administration by the board of the sections in the Railway Act dealing with competitive rates was a negative administration. As the commission report puts it, we argued that the board has allowed the railways "too free a hand to institute competitive rates". We asserted, without apology, a real interest in central Canada's competitive rates because, as the commission reports at p. 85, we said that—

the railways necessarily have to recover their reduced intake on competitive eastern traffic by charging higher rates on non-competitive and long-haul traffic in western Canada.

In my submission no undue hardship is visited upon the railways by Section 331. Without much question, the Transport Board today has the power to demand all the information set out in the section 331.

Section 324 of the Railway Act reads:

All tariff by-laws and tariffs of tolls shall be in such form, size and style, and give such information, particulars and details, as the board may, by regulation, or in any case, prescribe.

Under this section of the Railway Act, general order 669 of 21st December 1944 has been enacted by the board establishing tariff regulations, and regulation 17, which specifically deals with competitive rates, reads in part as follows:

The filing advice covering the filing of such schedule shall be accompanied by a clear statement of the reasons for such publication, the name of the party for whom the rate was made, the rate and the name of the

carrier with whom competing, the rate which would otherwise apply in the absence of such publication, *and such other information as will satisfy the board as to the bona fides of the action taken.*

(Italics mine.)

It seems quite clear that under that regulation the railway would be required to file all of the information called for by section 331 of Bill 12. But Mr. Evans argues that with this list of requirements before the board, as representing the intention of parliament, the board would be more inclined to require this specific piece of information or that specific piece of information than it would under the general basket-like section now in force or under the equally basket-like section the Canadian Pacific proposes in lieu of Section 331. It is quite likely that the board would be so inclined. Some of us might be there suggesting that the board implement the intention of parliament as expressed in this section. Let there be no misunderstanding about that. Let us not forget that we argued that there was a wrong to be righted—that the board did not supervise the establishment and operation of competitive rates in central Canada as those rates should have been supervised. The royal commission gave effect to our protests. And section 331, spelling out the various kinds of information respecting competitive rates which the board is empowered to require, represents the royal commission's conclusion as to what will remedy the situation of which we complained.

Canadian Pacific counsel further argued that it will be impossible for the railways to supply all of the information set out in section 331. The draftsman seems to have had that important fact in mind. You will observe that the section first provides that the railways must satisfy the board—

that the competition actually exists

that the rates are compensatory

that the rates are no lower than necessary to meet the competition.

The further and more particularized information to which the Canadian Pacific counsel specially objects is not in the same class as the three requirements I have just referred to. The section carefully provides that this further information or any part of it will be supplied "if the board in any case deems it practicable and desirable". The railways have only to convince the board in connection with the particular competitive rate that happens to be under consideration that it is not practicable or is not desirable to supply some particular information. Surely nothing could afford more effective protection against what Canadian Pacific seems to fear—a direction of the board requiring the railway to supply information which it is not possible to supply. At p. 32 Mr. Evans said—

I am not afraid of the Board of Transport Commissioners having discretion.

What more apt words could you have to give the Board a full discretion than the words immediately preceding the sub-paragraphs which Mr. Evans dislikes, and those words are: "and such information, if the Board in any case deems it practicable and desirable, shall include all or any of the following:"

The committee will find that the subsection which the Canadian Pacific proposes in substitution for subsection 2 of section 331 is substantially the same as section 324 of the Railway Act and the competitive tariffs regulation in the board's tariff circular to which I have referred. In other words, the Canadian Pacific is substantially satisfied with the existing state of affairs. As to that, I will only say that the royal commission, after listening to a great deal of evidence respecting competitive rates, felt that the existing provisions were not sufficient.

Turning to the section dealing with EQUALIZATION—SECTION 332A.
(Evans p. 37; Spence p. 71)

3. I will deal first with the criticism which Canadian Pacific counsel offered to section 332A. Mr. Evans was concerned that the section empowered the board to require a railway to establish *one* uniform scale of class rates and *one* uniform scale of mileage commodity rates. Mr. Evans wished the Transport Board to have the right to establish more than one scale in each case.

Mr. Evans had in mind in that regard that the so-called arbitraries in the rate structure should be preserved. I wish to make it perfectly clear that the use of the so-called basing arbitrary, which is the eastern factor in the rate from, say, Toronto to Calgary or Edmonton, effectively contributes to the high rates which Alberta pays. What the railway does is this: in making a rate from Toronto to Calgary the first component is an arbitrary amount which is the same from any and all points in the Windsor-Sudbury-Montreal triangle. Then there is added the full rate from Fort William to Calgary, and the sum of the two constitutes the total freight rate. You will see at once that for the rate to Calgary that system loses the tapering benefits that would come from the construction of the rate on a mileage basis from Toronto to Calgary.

Alberta asks—and we so submitted to the royal commission—the elimination of the Fort William basing arbitrary. The royal commission recommendations gave us what we asked. The royal commission recommends the “establishment of one uniform equalized class rate scale throughout Canada”, and section 332A of Bill 12 empowers the board to establish such a scale.

But, speaking for Alberta, I desire the establishment of *one* uniform equalized class rate scale. If that means the elimination of the basing arbitrary over Fort William, I am satisfied. The result will be beneficial to the part of Canada I represent.

At p. 75 Mr. Evans said—

I do not think it is good that this long standing basing arbitrary should be removed because if the western farmer pays for the freight he gets from eastern Canada he is going to be affected by it, he is going to have his disturbance, too, and the maritimes their disturbance, too.

Now, Mr. Evans knows that when the Alberta farmer brings goods 2,000 miles from eastern Canada he pays more through the use of the basing arbitrary than he would pay if those goods originated at Fort William and were hauled 2,000 miles over western lines only. That is a fact we proved before the royal commission. What could better illustrate that the use of two scales works a definite injustice to the Alberta farmer, and for that matter to any receiver of goods in Alberta from eastern Canada, an injustice which the Turgeon Commission recommended should be removed.

I now come to the quite important matter of the transcontinental rates.

I intend to strictly obey the chairman's ruling that the statements being made to the committee should be confined to the effects, beneficial and otherwise, which will result from the proposed legislation. After all, Alberta had its day in court just as the Canadian Pacific did. I asked for more than the commission recommended but I am satisfied with what was recommended. The Canadian Pacific is not satisfied, so I am here to defend the section.

The commission report, in clear, concise language at pages 96 to 101—and I am sure the committee will read every one of those pages carefully—sets out the problem of the transcontinental rates and the reasons for the remedy it recommends. I would be trespassing on your time if I even attempted to repeat anything of what I said in my extensive submission to the royal commission, which ran to 153 pages.

I would like the committee to just visually see what I submitted to the royal commission on this one subject alone, that is the discrimination of the long and

short haul. The submission itself runs to 153 pages and I have taken out from the transcript of the royal commission proceedings a list of the places where my witnesses appeared and gave evidence and where they were cross-examined. I had two witnesses. I brought Professor Philip Locklin from the University of Illinois to explain the American situation and he did that. Also, I had a man called Hu Harries who looked after the Canadian aspect of the matter. I found that Mr. Harries was cross-examined by a lot of people. He was cross-examined by Mr. O'Donnell for the Canadian National Railways, by Mr. Sinclair for the Canadian Pacific Railway, and by Mr. Brazier for the province of British Columbia, and Mr. Covert, counsel for the commission.

Professor Locklin was cross-examined by Mr. Evans for the Canadian Pacific; by Mr. O'Donnell for the Canadian National Railways; by Mr. Shepard—but I really should not say that Mr. Shepard cross-examined him because I am bound to call the attention of the committee to the fact that the transcript of the royal commission records that Mr. Shepard supported the province of Alberta on the long and short haul.

Mr. GREEN: He has improved since then.

The WITNESS: I say only in passing that it is not the voice of the province of Mantobai speaking through my very good and close friend, Mr. Shepard, but the voice of the Winnipeg Board of Trade.

Professor Locklin was cross-examined by Mr. Shepard; Mr. Rapoport representing the truckers; again by Mr. O'Donnell of the Canadian National; again by Mr. Evans of the Canadian Pacific; again by Mr. O'Donnell for the Canadian National. He was re-examined by myself and by Mr. Covert and Mr. O'Donnell.

I only point out that we did not get from the Turgeon Commission for the asking, by putting out our hand slightly extended, the recommendations that appear in this report. It was fought out over many many days and the commission decided upon this solution, arbitrarily if you like. It has been said over and over again that nobody asked for this solution. Now, nobody asked for this particular solution. I almost thought that my friends that have spoken before me were not lawyers at all—because you would think that they had never gone into a court and come out and then read the judgment which put the case on a point which nobody had ever argued. You would think they had never been in a court of appeal; where arguments are heard—and the court will write the judgment on a point not argued. Without calling counsel back, they will decide the case on a point never put forward.

That is not the case here. I tried to get the commission to give me the full rigid application of the long and short haul rule, because there are thousands of people in Alberta that cannot understand why we should pay more—never mind one and a half or one and three-quarters times but more—than Vancouver pays.

So, I proposed an amendment to the commission, an amendment to the Railway Act which, it is true, was procedural. I mean by that that it did permit the railway to go to the Board of Transport Commissioners to get relief but it was much more rigid and exacting than the corresponding legislation in the United States. Frankly, I think that if the commission had accepted my amendment, although the Canadian Pacific might have gone many times to the Board for relief, I think the number of times where they would have obtained relief would have been few—because I argued that in each case that they would have had to prove that the rate to the intermediate point was just and reasonable in the light of and when compared to the toll for the longer distance. That was a very decided and sharp departure from the American rule which simply says a carrier must prove that the rate to the intermediate point is just and reasonable.

Now, I have only departed—and I said I would not—from the rule that I am not here to repeat the case I argued before the commission, to point out to the committee to put no stock whatever in the suggestion that this is something that was taken out of the air. It was not. The Canadian Pacific was arguing, I suppose you might say, for the retention of the existing unsatisfactory state of affairs. I was arguing that we should go beyond even the relief given in the American practice. The commission listened neither to Mr. Evans nor to myself and they gave me, arbitrarily if you like, this one and one-third rule.

I have not any doubt about it all but that the people I represent in Alberta, many, many of them will probably not thank me for saying to this committee that I am content with the one and one-third rule. As I said before, and please forgive me for saying it again, a lot of people in Alberta—not wholly uninformed people—find it difficult to understand why, particularly when the boats are not running, they should have to pay 200 times to Edmonton what Vancouver pays on the same commodity.

Mr. MUTCH: 200 per cent.

The WITNESS: 200 per cent. I have the figures here and it is 205 per cent.

Mr. LAING: How would you get the goods there if there were no railways?

Mr. JOHNSTON: That is a ridiculous question, there are railways.

The WITNESS: Well, I want to understand Mr. Laing's question. They might go by truck when the Trans-Canada highway is finished, I suppose.

The Canadian Pacific attack on Section 332B before this committee can be conveniently summarized as follows:

1. The principle here provided for does not apply on any other competitive rates and if it were applied here it would have to be applied to all other competitive rates.

That I think is a fair statement taken from the two quotations of Mr. Evans which I will not stop to read to you because I have given the reference here.

2. The Transcontinental rates might have to be increased.

Mr. GREEN: Or abolished?

The WITNESS: Or taken out altogether. If you would take them out altogether you would not have any traffic and it would mean the same thing.

Mr. JOHNSTON: And the ocean might dry up too.

The WITNESS: Both statements have somewhat the aspect of arguments in *terrorem*. They seemed designed to frighten the committee.

Hon. Mr. CHEVRIER: That is the position of a lot of arguments made here—arguments in *terrorem*.

The WITNESS: I hope there won't be a single one of my arguments that could be so described.

Let us examine them to judge their importance. The new principle of limiting the intermediate rate to a fixed percentage—in this case 133½ per cent—is a statutory change. In its very nature it will apply to no other traffic than transcontinental freight traffic as defined. It could not possibly be a reason for modifying other rates.

It might be said that that is a rather legalistic argument as well as a narrow one. I go on: but are there any other cases in any sense or in any degree comparable with the situation which obtains on transcontinental traffic? You will find none. Mr. Evans at page 43 said that it would not be possible to apply the principle here established and not apply a similar principle to all truck competitive rates. Where are the truck competitive rates where intermediate

points have any claim for redress? If the truck competitive rate from Toronto to Montreal is \$1, does Kingston pay \$2? Certainly not. By the very nature of the traffic Kingston enjoys its own truck competitive rate. And frankly I found it difficult to find what he might have in mind. Canadian Pacific counsel may possibly be speaking of small villages in the close vicinity of terminals where by the terms of the tariff the truck competitive rate would not apply except at the terminal. Intermediate points of that kind would have no interest in the rate to the terminal. They would be supplied by local rates from the terminal—rates which in themselves would be truck competitive. Let the rate structure be searched to find any intermediate rate which is 205 per cent of the rate to the terminal 750 miles farther distant. That is the state of affairs in the movement of the very important traffic of canned goods.

At this point I want to say a word about Mr. Evans' statement at p. 45 where he said:

The present rate on canned goods to Calgary and Edmonton is \$2.97 per hundred pounds.

I am sure you will be interested to know that the published rate on canned goods from Ontario points to Calgary and Edmonton is \$3.23, which is the straight 5th class rate. The tariff reference for that is C.F.A. number 4-F; CTC 1164. That is the rate which would be paid by the receiver of canned goods by carload in quantities of 24,000 lbs. or even 40,000 lbs. or 60,000 lbs. But there is a way to get canned goods to Calgary at less than \$3.23. First you must be able to handle a carload of 70,000 lbs. Then you must ask your shipper to endorse the shipping bill "via Vancouver"—"Aylmer, Ontario, to Edmonton, Alberta, via Vancouver, B.C." The railway will certainly not wish to strictly follow that direction and haul the car through Calgary to Vancouver and back to Calgary. To get away from that farcical situation, the railway permits you to pay a combination rate made up as follows: Ontario to Vancouver \$1.57, Vancouver to Calgary \$1.40; total \$2.97, and that is where Mr. Evans' figure of \$2.97 comes from. There is nothing in the tariffs filed with the Transport Board establishing a rate of \$2.97. The only published rate is \$3.23, which is 205 per cent of the rate to Vancouver.

I am going to the Canadian National for the sake of the following illustration. In other words, the published rate from Hamilton, for example, to Edmonton via C.N.R. is 26 cents higher than the rates published by the railways to carry the freight 2,039 miles to Edmonton plus 1,532 miles to Vancouver and back to Edmonton—or a total haul of 3,571 miles. In my submission, gentlemen, these figures speak for themselves.

Is there any great wonder that the Royal Commission gave a sympathetic ear to our complaint and decided that after 40 years of discrimination something had to be done?

Returning to the Canadian Pacific criticism of Section 332B, I ask the Committee to put no stock in Mr. Evans' fear that the entire competitive rate structure will require a voluntary imposition of the 133½ per cent rule to intermediate points. There could be no intermediate point rule generally applicable over the entire competitive rate structure such as is required in the case of the transcontinental traffic.

By Mr. Green:

Q. Do you mind explaining that a little more fully, Mr. Frawley?—A. There isn't any place where you would find anything of that degree, where you would find anything like 205 per cent in anything that I was able to look at. The only place where there would be that rate would be where the people rise up, as in Alberta and Saskatchewan, as they have done now, to object to that discrimination.

Closely associated with the point I have just discussed is the suggestion thrown out by Canadian Pacific counsel that places like Regina and Brandon and Calgary and Edmonton too, for that matter, once their rate was reduced by this new intermediate point rule, would petition for still better treatment on the ground that their rates should be graded for distance. I find it hard to think that my friend Mr. Evans was very much concerned about this, notwithstanding the hopes and aspirations of the *Regina Leader* to which he referred.

What would be the ground for any such claim? There would be none. It must not be overlooked that Section 332B simply gives to the railway by statute relief from the Long and Short Haul rule. In other words, the new section will permit the railway to continue to violate a cardinal rule of transportation—the common-sense rule that says that you cannot charge more for 2,000 miles than for 2,750 miles. Accordingly the reduction in the rate to the intermediate points would come about wholly and directly as the result of this new section.

Such reduction could not serve to found a claim of the kind referred to by Canadian Pacific counsel. Brandon or Regina or Edmonton could not use Section 332B to found a claim of a totally different character which the new statute could not possibly be made to support.

Let me interpolate this observation. When we are considering Mr. Evans' statements with regard to the agitation which may come from places like Brandon and when he said that now under the intermediate point rule Brandon and Dawson Creek would enjoy the same rate, let us remember what he had to say about the retention of the large rate groups in eastern Canada.

Mr. Evans did not say so in so many words, but what he is arguing for here is a continuation of the existing state of affairs, namely, the large Windsor-Sudbury-Montreal triangle or, as known in the freight rate world, groups A and B. We find the Canadian Pacific advocating the retention of the large rate groups referred to. What is the essential difference between what is now enjoyed in the east and under the new legislation will be enjoyed, not on all traffic but in some special cases only, in the west? There is no difference.

Mr. Evans has not asserted that it hurts the Canadian Pacific Railway to give to Windsor the same rate as to Sudbury; in other words, in a rough way of speaking, by taking goods from Windsor to Sudbury for nothing because that is what it amounts to, treating Sudbury westbound traffic the same way as the Windsor traffic.

By Mr. Green:

Q. You are really arguing that there should be a rate grouping from Brandon to Dawson Creek?—A. I think it would be, as the break on the transcontinental rate should bring it somewhere near Brandon. As a matter of fact, to show the way that that transcontinental long and short haul discrimination works we brought before the royal commission a large exhibit because we went to the trouble of examining every single rate, and we found—and I say this in the presence of the Manitoba people—we found that sometimes the equalization did not take place until you got back to a point somewhere on the north shore of Lake Superior—far east of Winnipeg. Then you had a new rate. That point, as a matter of fact, the name of the place is Bonheur, and I remember Professor Angus making a joke of it.

By Hon. Mr. Chevrier:

Q. A very adequate name?—A. Yes, and the reason it was an appropriate name was that the name of the commodity was soda water.

Now, we found that as far back as Bonheur, Ontario, the Vancouver rate applied so you had it coming along all the way and, of course, in Manitoba,

who have now cast their lot against us in this matter, there are many places—not enough to overcome the views and feelings and aspirations of the Winnipeg Board of Trade—but there are a lot of places in Manitoba where that rate applies and as you can see from Mr. Evans' example it pretty nearly applied at Brandon because the difference in the rate is only 6 cents.

Now the point I am making first is that all we are doing is putting in a rate group in western Canada—putting this group of transcontinental rates into a large group.

By Mr. Green:

Q. If the bill becomes law in its present form, then the Windsor, Ontario, group will be wiped out?—A. By virtue of section 332A, that is right, Mr. Green.

Q. You would still have the grouping in the west?—A. That is why Mr. Evans was arguing against it. Well, it may be that we will now have what they have had in the east for forty years.

Q. You would be in the advantageous position that they were in?—A. If you could call it that. I am not running away from the fact that section 332A after forty years gives Alberta some relief.

Mr. Mutch: If Mr. Green is right we in Manitoba will be where we always were—in the middle.

The Witness:

2. The second proposition advanced by Canadian Pacific in criticism of section 332B is that the railway might have to increase the transcontinental rates so that (and these are Mr. Evans' words at p. 47) "so that we would not have the one-third rule apply".

May I pause again to say that there again are some of the ingredients of an argument *interrorem*.

Now what would urge the Canadian Pacific to take out the transcontinental rates? What reasons does Mr. Evans assign? We can be quite sure the rates to Vancouver would not be taken out unless sheer economic necessity drove the railways to it. What are the important facts and the probabilities?

The Canadian Pacific is making a profit on the \$1.57 rate to Pacific coast terminals or at last the coast rate is making a contribution to overhead.

Mr. Evans said that and repeated it two or three times and for the record I point out that he said it at pages 46, 48, 50 and 55.

That is the situation respecting the profitability or otherwise of the transcontinental rate. So that, although the transcontinental rate shows a profit or a margin over cost, we are told that if the Canadian Pacific is required by statute to accept \$2.09 for a haul of 750 miles less than the haul for which it receives \$1.57, it will take the Vancouver rate out. Do you think they will? Do you think that experienced traffic officers will deliberately increase the coast rate to the point where the boat service will revive and take the traffic?

Put it another way: If the \$1.57 rate is making a contribution to overhead, then the new rate of \$2.09 at Calgary is contributing a great deal more—not as much of course as the existing combination rate of \$2.97 or the normal rate of \$3.23—but still a substantial contribution. How can the rate of \$2.09 possibly be regarded as a penalty on the railway?

The position is rather sharply pointed up in the interchange between Mr. Evans and two members of the committee at p. 48 of the transcript.

Mr. Johnston: Is it true that you are making a profit on the \$1.40 rate to Vancouver?

Of course, that should not be \$1.40. It was \$1.40 for a long, long time, but now it is \$1.57.

Mr. Evans: Yes.

Mr. Low: Then why do you say it would be necessary to increase the base rate under the one and one-third formula?

Mr. EVANS: That is not an easy question to answer but I shall try. If you are carrying let us say, "x" million tons of freight, and that "million tons has to provide a certain requirement in overall net profit to keep the railway operating, is it better or is it not, to have some extra hundreds of thousands of tons, let us say, so as to provide a profit? Does it not reduce the sum total that must be contributed to by other traffic? It is just as simple as that.

Now, my friend Mr. Shepard this morning said something that I want to associate myself with. I am glad to be able to find something to associate myself with Mr. Shepard about, and that is that he had a high regard for Mr. Evans, and I want to say that I have a high regard for Mr. Evans too, and I do not know of any more competent railway counsel in the whole of Canada than Mr. Evans, but I do not think he made that very clear. I do not think that was one of his best efforts.

Again I say if the new rate to intermediate points under section 332B will provide not only some modest margin but a plus of $33\frac{1}{3}$ per cent of the coast rate, why would the Canadian Pacific not be satisfied?

There is only one other way to look at the question. Suppose the Canadian Pacific really does decide to take out the favourable transcontinental rates for the reasons Mr. Evans has at least pointed to. Then, the dependence of the low Vancouver rate upon the high intermediate rates would become crystal clear. It would then appear that the low coast rate is possible because the contribution to profit which it cannot make is being made up by the contribution of the higher rates on the same traffic to points like Calgary and Edmonton 750 miles less distant. That puts it as clearly as I can put it.

Is the Canadian Pacific saying to the Committee that they just "will not have the one-third rule apply" and that they will deliberately increase the transcontinental competitive rate to the point where they will permit the Vancouver-St. Lawrence boat traffic to start up again and take the business, just so as to be sure that they will continue to receive these inordinately high rates to Calgary and Edmonton and other intermediate points? I do not like to think the Canadian Pacific would take that course.

By Mr. Green:

Q. Your rates would be higher if the transcontinental rates were wiped out, wouldn't they—they would be higher than they are now?—A. No.

Q. If the transcontinental rates were wiped out then your rate to Calgary would be based on a mileage rate and not on the transcontinental rate to Calgary and then the rate from Vancouver to Calgary?—A. Oh, yes, we would not have the combination. All I say is they cannot increase the \$3.23 unless they go to the board and make out a case of financial need.

Q. If the transcontinental rate was wiped out and the straight mileage rate came into effect then your rates would be very much higher than they are now?—A. There is no doubt about this, Mr. Green, that if Vancouver lost the transcontinental rates the mileage rate to the coast would be something above \$3.23, and then you cannot bring it back at \$1.40 without paying more than \$3.23.

Q. But I am talking about Calgary.—A. I think I follow you. If there were no transcontinental rates, the \$1.57, then there would be in place of that—there could be conceivably—

Q. The ordinary rate?—A. Yes, the ordinary rate, and if it were a straight fifth-class rate it would be something above the \$3.23. Even being as alarmed as I could possibly get myself to be, I could not imagine that the Canadian Pacific would put in the straight fifth-class rate to Vancouver. I do not think

at all that they would touch the transcontinental rates until they had to by reason of sheer economic necessity, unless they did it deliberately to keep the intermediate rates inordinately high.

That is the point I want to bring out. Take such a simple thing as an axe. For the eight-year period 1933 to 1940 a wholesaler in Vancouver could get a shipment of axes at exactly half the freight rate that a man could in Edmonton, and then today we find that it costs \$3.23 to get canned milk from Ontario to Edmonton while Vancouver gets canned milk from Ontario for \$1.57.

It was because of the gross and patent injustice involved in the violation of the Long and Short Haul rule on transcontinental traffic, to which I have alluded, that the Turgeon Commission made the recommendation which the Minister of Transport has faithfully reproduced in Section 332B.

So much for the negative side, by way of defending the section against the Canadian Pacific attack. Let me turn to the positive side and make a few general observations. I am sure that it is of special importance to the Committee to learn that long and short haul presents no problem on transcontinental traffic in the United States. For thirty years it has been an inherent condition of the transcontinental rate structure in the United States that no intermediate point pays more (not one-third more) than the rate to the coast terminals. In other words, if the rate from Cleveland or Pittsburg to San Francisco is \$1.50, Salt Lake City and Ogden and Reno and Omaha pay \$1.50—no more. And it must be remembered that some of the American railways hauling transcontinental freight are railways whose traffic is virtually all transcontinental traffic terminating at what we call intermediate points. The Union Pacific lines originate at Council Bluffs, Iowa, and terminate at Ogden, Utah.

I think I should say that I cannot outline to this committee with any preciseness the economic effect of continuing the long and short haul discrimination which we have suffered for so many years, but I can and I do point to conditions in the inter-mountain area of the United States—Spokane, Salt Lake City and the Coeur d'Alene and other cities which have received the benefit of the application of the long and short haul rule in the Interstate Commerce Act and which have grown and thrived in the past 15 or 20 years because of that.

Might I say to you, gentlemen, that it is a simple fact that the people of Alberta, the businessmen of Alberta, constantly keep reminding themselves of the situation in the United States where the railways by virtue of the statute and the point of view of the Interstate Commerce Commission are required to charge not more to an intermediate point than to a coast point; and, as I say, it is difficult for the people of Alberta to understand why points that are directly south geographically in a straight line from Calgary should enjoy that relief from the long-short haul discrimination, for it is discrimination unless you get relief from it, while they have to pay rates which are in the case of canned goods 205 times the coast rate—pardon me, I mean 205 per cent of the coast rate.

Apparently the proposition has long ago been accepted that it is wholly unwarranted to violate the long and short haul rule on transcontinental traffic. The Canadian Pacific brought no evidence before the Royal Commission indicating that the American carriers could not profitably operate on the basis of charging the intermediate points the same rate as the competitive rate to the coast terminal. The proposed Section 332B does not require the railway to haul the freight to the intermediate point at the same rate as the west coast terminal enjoys, as is the case in the United States. On the contrary, it permits the railways to continue to violate the long and short haul rule and to charge the intermediate points hundreds of miles less distant 133 $\frac{1}{3}$ per cent of the rate, to the coast terminal.

So far I have been discussing this question from the standpoint of the railways. In so far as the West Coast receivers and shippers of freight are

concerned, they have an effective means of avoiding the consequences of an increase in the transcontinental rates. As we have been told many times, the St. Lawrence-Vancouver boat traffic, presently inactive, is potential competition and the boat traffic would presumably be quickly at the disposal of the West Coast if the railways were so short-sighted as to unduly increase the existing transcontinental rate structure.

As I said, I devoted nearly all remarks to a criticism of the Canadian Pacific and that was for a very good reason, that it was the criticism which I had available to me in the transcript. I have now had a look at what Manitoba thinks about it and I still do not know what my friend Mr. Frazier will say about it. Now, dealing for a moment with what Manitoba said, Mr. Shepard's submission was a simple one and very easy to understand. He thinks that the Winnipeg distributor who has an advantage against Edmonton by virtue of this barrier against the Edmonton distributor in so far as it applies to a place like North Battleford, and his claim is that they should continue to hold it, and that it is a perfectly wrong thing that this legislation should attempt to take that away from him. Well now, gentlemen, let us look at this point, Battleford. As I say, I thank my friend for having given us a clear cut example. I have been using just the ordinary, passenger time-table mileages for the mileage from Edmonton to Battleford, and I find that that mileage is 254 miles. I have worked out three different mileages from Winnipeg to Battleford; I find they are respectively, 607 miles if you are going to Battleford by way of Regina and Saskatoon; 686 miles if you are going from Winnipeg to the Battlefords by way of Dauphin and Prince Albert; and 605 miles if you are going from Winnipeg to Battleford by way of Melville, Saskatoon and Biggar. Now, surely gentlemen—and I want to be as serious about this thing as I possibly can—I need hardly say that this is of tremendous importance to us—to the people of Alberta; but surely, Winnipeg has got to understand that the city of Edmonton has long since grown out of the position of being a suburb of the city of Winnipeg.

Hon. MEMBERS: Hear, hear.

The WITNESS: Edmonton now is really a great big town. Surely, we do not need to emphasize its growing importance in the economy of western Canada. Now, all that is happening in Mr. Shepard's submission is this, that the man in Winnipeg may sell his iron and steel articles, to Battleford although we in Edmonton are only one third of the distance from it, we are one third of the distance closer to it than he is. He says, in effect, I do not mind if you sell your butter and eggs. There, again, he thinks we are a whistle stop. He says, don't bring any steel or things of that kind down there, you may bring in your butter and your eggs, things that you grow in your own district. What he really has in mind is that we should be limited to the goods which we produce in the Edmonton district.

Mr. GREEN: Why don't you get goods from Vancouver, you could buy what you want right there in Vancouver?

The WITNESS: Now, I have a word to say about that later. So, just in closing; what I have to say about Mr. Shepard's summary appearing on page 8 of his submission where he summarizes his position; and he says the thing that is wrong with this one and one-third rule is that it disturbs the existing and long established competitive position of businesses in the various centres of western Canada. Well, I just simply put it to the committee, and I cannot imagine they will not agree with me, that Edmonton is entitled to distribute to a place like Battleford, which is 254 miles away, and they are entitled to distribute these goods which they get from eastern Canada; and that, I might say includes nearly all the goods distributed in western Canada, except for some that come from the coast.

By Mr. Green:

Q. Before you leave that, Mr. Shepard's submission on this plan, would the effect of that be that it will cost Winnipeg just as much to get this carload of steel as it would cost Edmonton to get it because you have this big block freight rate from Winnipeg to Dawson Creek? If the plan you are advocating is followed steel may be shipped right past Winnipeg to Edmonton at the same price at which it goes to Winnipeg then you would be able to ship it back to Battleford and possibly put it in there at a lower rate than Winnipeg could deliver it for, and without having gone to Edmonton at all. That would be the position?—A. Yes, and what we are complaining about is that we have not been able to do that up to this point.

Q. Do you think it is fair that you should be able to do that? We are very much concerned about these trans-continental rates. Whether you are entitled to that because there is a competitive situation, or whether you are entitled to the benefits of the position just as in the case of Winnipeg?—A. That is correct.

Q. But as I understand your situation at the moment the way this thing would work out now would be that the cost of hauling a carload of steel from Hamilton to Edmonton will be just as low as to haul it from Hamilton to Winnipeg?—A. I do not know that it will be.

Q. Or approximately the same. Are you saying that that is not a fair situation?—A. That is what the removal of the discrimination does, that is just how it operates. You take away the discrimination and you impose the one-and-one-third rule. That would be the situation.

Q. You are building up your whole case on what happens to be our competitive advantage at the coast. You base everything on our competitive advantage and you say you do not think you will lose that competitive rate, then you build your whole argument on our competitive rate.—A. I am not building my argument on your rate. I am simply saying that the rate is there and as long as it is there I should not be charged any more than that rate because of the basic long and short haul rule, and now the railways will be allowed to charge one-third more to an intermediate point. The removal of the discrimination will allow Edmonton to enjoy distribution which all along she should have had. There would not be any iron or steel articles from Winnipeg into Battleford if this long and short haul discrimination had not been allowed to go on.

Q. But you do not say that steel from eastern Canada should be hauled to Edmonton just as cheaply as it is hauled to Winnipeg. That is your argument. You say a carload of steel will go to Edmonton just as cheaply as it goes to Winnipeg, and because Battleford is closer to Winnipeg you will be able to get back your market.—A. Under the new rule steel will go to Edmonton for one-and-one-third times the rate to Vancouver.

Q. That is what I say. Your whole argument is not based on long or short haul, your whole argument is based on the fact that British Columbia has a competitive rate. Your whole argument stands or falls on that basis. If as a result of this bill we lose our competitive rate, then we are out of luck and you are out of luck, too, because then you will go back to the distance rate. You will have to pay for your distance from Hamilton.—A. Yes, but the point of my argument is that the railways, having put in a rate whatever it is to Vancouver, 750 miles further than Edmonton, then I say they must not violate the long and short haul rule, we say they must not violate it at all, but this rule allows them to violate it by $33\frac{1}{3}$ per cent.

Q. Putting it the other way, what would you say if steel were to be purchased from Vancouver, if we were manufacturing steel, which we should be able to do. Then if that were the position and the rates you are now advocating

were in effect, then the steel would go from Edmonton and through to Winnipeg, and Winnipeg would be able to sell it back to Brandon and beat your distribution rate, sending the steel from Edmonton to Brandon. I mean on goods coming from the west coast you would have the benefit over Brandon because Edmonton is nearer Vancouver. This plan you are advocating now makes the rate exactly the same to both Winnipeg and Edmonton.—A. The best answer I can give you to that is that ordinarily rates are graded for distance; on the traffic from eastern Canada to Vancouver and to Edmonton they are not graded for distance.

By Mr. Laing:

Q. Is it not a consequence of the 1½ provision you are going to have a decline of the large distributing centres, and this car of steel you are arguing about between Winnipeg and Edmonton, you may consign that car to Battleford after a while—is that not going to be the effect?—A. Consigned from the east?

Q. That is right.—A. If the people in Battleford were big enough to buy it in carloads.

Q. Is not the 1½ provision going to do that, and you are going to have an inevitable decline of your large distributing centres?—A. I cannot see that as a consequence.

Q. I do not want to take steel as an example because there are so many other products that can be ordered by car lot under the new rates which they could not use before.—A. I am not making the case for Edmonton, as the Edmonton distributors are coming down next week to tell you their own story. I am arguing justification for the consumers in Alberta who have paid for long, long years too much.

By Mr. Green:

Q. Is it not a fact that each province gets a benefit on some particular kind of traffic? You get a benefit on your wheat. You are protected by statute in this benefit. We get a benefit to the coast on these transcontinental rates which are not a very large percentage of the business, apparently, but we do get that protection. It may be that our position is better than yours, but on the other hand you have an advantageous position on grain rates which nobody is even raising, at least, I am not aware of that being questioned, but we are afraid that the bill as it is drawn now is going to wipe out our transcontinental rates and we do not see why you should do it?—A. I know that is your position, that you are afraid you are going to lose the rates, that is precisely what Mr. Evans wanted to get as a result of his remarks the other day.

Q. Have we not got a right to be alarmed?—A. No, I do not think so. I do not think you can compare it for a moment to the injustice under which Saskatchewan and Alberta have suffered all during these years. Mr. Evans, after all, is speaking for the C.P.R.—

Q. What percentage of your Alberta traffic is affected by these transcontinental rates?—A. I do not know.

Q. Now, there must be somebody who knows what percentage of your Alberta traffic is going to be affected by your transcontinental rates.

The CHAIRMAN: I asked for that information the other day and the C.P.R. could not give us that. I asked the same question in effect and Mr. Evans answered he could not tell us.

Mr. GREEN: Mr. Evans, I think, tabled one statement which showed that the traffic which would be affected by equalization—

The CHAIRMAN: If you have mislaid your copy, I have one here.

Mr. GREEN: No, but I would like to get some idea of the percentage of Alberta traffic which is affected by the transcontinental rates.

Hon. Mr. CHEVRIER: I asked that question, as did the chairman: plus the traffic that moved on intermediate rates, but the C.P.R. was not able to get it.

The WITNESS: Now, before leaving Manitoba and saying briefly something about the British Columbia people, I want to deal very briefly with the question that Mr. Mutch put to Mr. Shepard this morning. Mr. Shepard agreed with the proposition put to him by Mr. Mutch, that if the Canadian Pacific was required to accept, just taking one rate, was required by statute to accept \$2.09 at Calgary and Edmonton, where they are now receiving \$3.23 or \$2.97, depending on the weight of the car, that would cause a raising of the rates in the intermediate territory. Now, I want to say this, it will certainly mean a loss of revenue in that particular rate, but the loss of revenue in the particular rate is not important. Freight rates do not go up because of the loss in the rate. Mr. Evans and Mr. Jefferson could not go to the Transport Board and get an increase in that rate of \$2.09 because they had been charging \$3.23. That goes without saying. They can only get an increase in the rates by the order of the Board of Transport Commissioners, and that order would only be given if they went in and established financial need, and if they did establish financial need under this they would get an overall increase, and I am not running away from Mr. Mutch's question because, having said that, I am going to take the other side of it. Assuming there was a loss of revenue, that loss would have to be in toto over the whole operation of the Canadian Pacific. They would have to go to the Board of Transport Commissioners and show in toto they had a deficiency in revenue, and the board would then give them relief and that relief would be made up by a general increase in all rates, and so our rates in Edmonton and Calgary, having already been decreased, would also be increased like the rates to Winnipeg and all the rest of Canada.

By Mr. Green:

Q. That is all based again on our competitive rates.—A. What do you mean by that, Mr. Green, please?

Q. If we lose our competitive rates, then you do not have that position at all because you are certainly going to have to pay more than Winnipeg on a mileage basis from eastern Canada. You are going to be harder hit.—A. That is depending on the fact that the Canadian Pacific accepts this legislation and is going to work it out.

Q. That is entirely in the discretion of the C.P.R. and C.N.R. The Board of Transport Commissioners has not a thing to do with it.—A. The C.N.R. has told you gentlemen, because that is a fair implication from the very few words that Mr. O'Donnell said, that they are not afraid of this and they think they can work it out.

Mr. GREEN: They did not say that. I understood they had no representations to make at this time.

Hon. Mr. CHEVRIER: Mr. Green, I would not worry too much about the C.N.R.

Mr. JOHNSTON: Nor lessen the transcontinental rates either.

The WITNESS: I want to point out something else that is germane to the question. We want equalization east with west. We want equalization of the distributing rates, for instance in western Canada which are higher than the distributing rates in Ontario. That is going to mean a loss of revenue. I am going to give you some instances I gathered up the other day. There is quite a difference in the rate out of Winnipeg compared with the rate out of Hamilton or Toronto. Now there again there is going to be a loss of revenue, but that does not mean the rate is going to go up because of that loss of revenue. They can only increase the rates where they show the board loss of revenue—a revenue deficiency in toto.

Mr. MUTCH: May I interject? I concede, provided that my original fear which has been voiced by Mr. Green, is not fulfilled, that they do not seek, without going to the Board of Transport Commissioners at all, to rectify the situation vis-a-vis revenue. I am one of those people who do not believe that there is any water competitive rate between Toronto and Vancouver. I yet have to be shown. I have some idea, but I would like to know accurately how much of this business does originate in the Toronto area?

However, leaving that aside for the moment, what I was concerned about this morning was—and you have not dissipated my fear—that there being a loss in revenue there is an automatic rise in the rate to Vancouver without anybody's say so—and then this intermediate one and one-third is based on that.

The WITNESS: I should perhaps leave that to people who are more expert in freight rates than I am. I feel certain that the Canadian National or the Canadian Pacific traffic officers, or the committee's own traffic adviser—because they have one—could give that. There cannot be any increase of that sort just overnight in the general rate level. It can only be by order of the board authorizing an increase after they have proved need.

Mr. GREEN: Well, it is the competitive rate—

The WITNESS: Not the competitive rate.

Mr. GREEN: It is a competitive rate?

The WITNESS: What Mr. Mutch was afraid of was an increase in the intermediate rates because of the loss of revenue.

By Mr. Mutch:

Q. I perhaps have not made myself clear but I was envisioning a situation where, as a result of the reduction from \$2.97 to \$2.09 we will say, that the railway might, as I conceive they could, raise the \$1.57 rate to Vancouver to \$2—and thereby raise the rate to Edmonton by one and one-third of the difference.—A. I see, Mr. Mutch. In other words, they might revise their transcontinental freight rate tariff—as they are doing all the time.

Q. The reason I am afraid of that is that I am one of those people who are skeptical about the competitive water rate from central Canada to Vancouver. I think they might very well raise the rate from Vancouver.—A. There is not any doubt but that we in Alberta face the position, with the transcontinental traffic, that the rate can be put up. Mr. Jefferson may go home tonight and put the \$1.57 to \$3.23. That is the risk we have to run.

Q. I hope I have not encouraged him by saying I do not think his competitive rate has any meaning.

Mr. BROOKS: Would that not encourage the boats to start again?

The WITNESS: Yes, and because of that I do not think the Canadian Pacific would do any such thing at all and we will find, when the smoke has blown away, that the transcontinental rate tariffs remain just where they are.

By Mr. Green:

Q. Is it not obvious that the railways are going to lose money if the one and one-third rule goes into effect?—A. No, you cannot say that they will lose money. They lose money every time they reduce—

Q. Your rates are going to be reduced?—A. Yes.

Q. That means they are going to make less money on your rates. Now, whose rates are going up to pay for it?—A. That is the point I want to discuss with you. I quite agree there will be a dollar difference between the \$3.23 and \$2.09.

Mr. LOW: In other words they will not make quite so much out of us as they have been doing.

The WITNESS: That may be, as to that particular rate. Let us put it your way: that they are losing—I do not know how many cents and I should have asked Mr. Morrison—but a certain number of cents; but that is not important. In so far as an increase in freight rates is concerned they may only be increased if they have shown an over-all deficiency in their business.

Mr. GREEN: Nobody is naive enough to think the railways are going to lose any money on this change, I hope? If they have to cut your rate then somebody else's rate is going to have to go up. That is just common sense.

Mr. JOHNSTON: Do you want us to continue to pay for it?

Mr. GREEN: It is perfectly obvious that must follow.

The WITNESS: But, Mr. Green, I think the only difference between us is—

Mr. GREEN: You do not believe that the railways are going to simply take that cut and do nothing about it, and get that much less revenue. They have been allowed by the Board of Transport Commissioners to date to get a certain revenue, and they are applying in another week or two to get higher revenue. As long as they do not go over what is allowed to them by the Board they are under no obligation legally as I see it to accept a cut in rates.

The CHAIRMAN: Just so that this argument may be clarified and finalized, do I understand you correctly, Mr. Green, to argue that you anticipate that the transcontinental rates will be increased as a result of the present legislature?

Mr. GREEN: I do not know what will happen to them but I am saying this—

The CHAIRMAN: You fear that they may be increased?

Mr. GREEN: Yes, or they may be wiped out entirely.

The CHAIRMAN: Then does it not resolve itself down to this: you have been enjoying a rate in some instances not more than half the rate to Calgary? And, you think your present preferred position should not be interfered with so that Calgary can get some redress?

Mr. MUTCH: Well, that is an over-simplification.

Some Hon. MEMBERS: Oh, oh.

Mr. GREEN: What we think is this—that your province, Mr. Chairman, and the province of Quebec, have been enjoying unfair advantage which is infinitely greater than anybody else is getting, and here we are in the eight other provinces having to row amongst ourselves—with very little provision in this bill to meet the real situation which is that Ontario and Quebec are not having to pay a fair proportion of the freight rates of Canada, because of the advantages they have through competition.

The CHAIRMAN: Well, you may start talking Ontario and Quebec rates but I suggest you leave Calgary out of it because Calgary has been paying double what they should have been, compared to your rate.

By Mr. Laing:

Q. I would like to get this point established, Mr. Frawley. I take it you are happy with the one and one-third intermediate position?—A. I am not happy, but I am not unhappy.

Q. It is the only thing you have sounded happy about to me in all your evidence. You would admit that your one and one-third, whatever it may be, is completely dependent upon the water compelled rate—by canal?—A. Yes, it is one and one-third of that rate.

Q. So if that water compelled rate is \$1, and if it became \$3, you have now \$1.33 but it would jump to \$4 with the increase?—A. Yes.

Q. So you have an interest in the water compelled rate—you have as much interest in maintaining the water compelled rate as we have in Vancouver—

every bit as much as we?—A. Yes, I certainly hope that this Vancouver rate stays, because that is how my people can get the most relief—at least by this bill the discrimination is taken away which is a great relief in itself.

Q. But I have always been persuaded that we had a very serious railway problem in this country and that we had to sustain the railways. It has been my thought that we had to find so much revenue for the railroads. I thought it was the intent of the board to obtain that revenue as fairly as possible from all of the people in Canada—and I hope that is the intention?—A. Yes.

Q. But I thought you were a little bit tough on the railroads. I thought you probably felt they had been unfair to the people in the past.

Mr. Low: Well, they have.

Mr. LAING: Well, I think they have done a great service and I think we still have a problem with us of sustaining the railways, keeping them out of the red ink, and to apportion their revenue on the fairest basis possible. We have to see to that, but I wanted to get from you the fact that your interest in the transcontinental water rate is as great as that of the city of Vancouver?

The WITNESS: Oh, I think so. I certainly would like to keep that rate there.

Mr. GREEN: You are getting cheaper rates because of that transcontinental rate—because of that water competitive rate. You are only paying \$2.97 now and if there were not that water competition you would have to pay \$3.23?

The WITNESS: Yes, I know Mr. Green. I know you are putting that to me quite seriously but that was put to me many, many times during the proceedings of the royal commission and the proceedings before the Board of Transport Commissioners. I am sure that you do not mind me saying that we just consider ourselves insulted, in Alberta, when you tell us that is a benefit. That traffic is hauled all the way through Calgary, over the mountains to Vancouver and back to Calgary, and through that farcical situation we have a better rate. It is only because it is a farcical situation and we get it because of the Vancouver rate.

By Mr. Byrne:

Q. I would like to ask a question, Mr. Frawley. I believe the question has been put before but I did not get the answer clearly. Do you have any information as to how much of the traffic through Alberta is affected by the transcontinental rate?—A. No.

Q. You have been to quite a number of commission hearings and I imagined you would have some idea?—A. We have no means of analyzing the railway records that way. I do not think it has ever been done. The chairman and the minister asked for that but the railways could not give it.

Q. Also, would you have any information as to how the Crow's Nest rates affect the province of Alberta, comparatively speaking, as between Alberta and British Columbia?—A. The benefit that comes to us out of the Crow's Nest rates?

Q. Yes?—A. I do not know that anybody has that information in detail.

Mr. MUTCH: Whatever it is we have paid for it.

The CHAIRMAN: Would you carry on?

The WITNESS: I have only one brief observation to make with regard to British Columbia. I have had called to my attention the fact that the British Columbia Cannery Association has circularized members of parliament—I do not know whether they have or not—and I do not know that it is any concern of mine at all.

I understand that the burden of the case of the British Columbia Cannery Association is that this bill, and the application of the one and one-third rule will lose to the British Columbia cannery the territory in Alberta which they now supply, and will allow eastern cannery to come in, because we will then get our canned goods from the east.

The concern, therefore, of the British Columbia Cannery Association is that our rates should be kept as they are, kept as the high place which I have been discussing with you, so that the British Columbia cannery can keep the eastern cannery out of Alberta. But in all that, not a single passing thought has been given to the Alberta consumer who buys his canned goods and who has to pay the high rates to keep our market for the British Columbia cannery.

One more thing: we have a small, growing, struggling canning industry in southern Alberta. Those people told the royal commission and the Board of Transport Commissioners that this transcontinental long and short haul discrimination prevented them from getting into the profitable coast market with Alberta canned foods, fruits and vegetables, because the eastern people went through on the transcontinental rates.

By Mr. Green:

Q. Do you not think that it is fair that the eastern cannery should be able to ship their canned goods out to Edmonton just as cheaply as the western cannery?

The CHAIRMAN: As a result of national legislation?

The WITNESS: The British Columbia canner does not give us any better deal. He just meets the competition which the eastern canner is up against getting into Calgary. If they would only give us the advantage, but they do not!

I am finished with my observations on the transcontinental rates. The only other section upon which I desire to make a comment is section 18 which provides for the annual payment out of the federal treasury of \$7 million.

I have not seen the final draft of this section, but I desire to say that it should fully—as it probably will—carry out the intent on this subject as expressed by the royal commission, and that payments out of the federal treasury should be reflected in the rates on traffic moving from eastern Canada to western Canada and from western Canada to eastern Canada.

There was some discussion this morning about income tax. The chairman seemed to think the job of the committee was to see that there was an immediate reflection in lower freight rates by application of that \$7 million; and that if that were done properly, and were done thoroughly, then there would be no improvement in the net, and therefore no income tax payable. That is a desirable position with which I associate myself and I hope that it could be brought about.

The committee realizes, of course, what income tax means. Mr. MacPherson touched upon it this morning. I will only do one thing: I shall call your attention to a page in the judgment of the Board of Transport Commissioners in the first case, the 21 per cent case, where they found a revenue deficiency of \$19 million; but they then went on to say immediately that they would have to give the Canadian Pacific \$30 million in order to allow them to pay income tax on that deficiency of \$19 million.

Those are serious matters which we have had to put up with all through the piece and I hope there will be some way of working it out so that we get the benefit of \$7 million, and not \$7 million less 40 per cent.

I have in conclusion a simple submission to make to the committee with respect to Bill 12. But before I come to my concluding remarks, I want to associate myself with Messrs. Shepard and MacPherson with respect to the situation in the maritimes.

I am here today representing the province of Alberta. The maritimes were very ably represented by my friends, Mr. Smith and Mr. Matheson. And I would like to think that when the maritimes come before the Board of Transport Commissioners, as I shall have to come before that board, to get the actual results of this legislation, that Mr. Smith and Mr. Matheson would be able at least to say to the board that they wanted to have their historic situation

preserved. And if the bill deliberately and effectively prevents them from even asking the Board of Transport Commissioners to preserve their historic position, then, along with Mr. Shepard and Mr. MacPherson, I am content that the bill should make that clear.

Now, I have a very simple submission to make with respect to Bill 12. I realize that the Parliament of Canada can accept or reject all or any part of the report. It has been said before all through the discussion that this committee after all is supreme. Of course, parliament is supreme. But I am sure that this committee would not recommend a major change in this bill unless it were overwhelmingly persuaded to adopt such a course.

The personnel of the royal commission and the quality of its advisers and the length of time spent in listening to both sides of the problem surely are considerations which should have great weight in deciding whether you should endorse this bill which would give effect to their recommendations. I thank you very much.

By Mr. Mutch:

Q. Before you sit down, Mr. Frawley, earlier this afternoon, as a result of an interjection as to the effect of this bill in the way of granting a preferred position to Alberta, you mentioned—perhaps seriously, but I do not know—that the result might be that you would begin, in Alberta, to enjoy all the advantages which have hitherto accrued to central Canada in the railway picture. It seems to me that that is exactly what might happen if the bill goes through as proposed. I suggest to you that those of us who are in the middle would not be made happier in paying tribute to the comparatively wealthy province of Alberta than we have been in paying it to central Canada. And if we are going to have some approach to a uniformity of rates, then I think it should not be a question of transferring the burden from an area in which you take from one neighbour and pay it to another. Is that a fair statement of what you meant? Do you think it is transferring, to use the language of the street, some of the gravy from Ontario and Quebec to Alberta?—A. Not particularly to Alberta. When you put the question to me generally, that would certainly be a paraphrase of my remarks, and I know you put it to me as such. Certainly equalization will put us more on a par with central Canada, and the removal of the long and short haul discrimination will just simply put right something which has been a great injustice. But I think that if we do benefit more than Manitoba from this legislation, it is only because we have suffered more in the past.

Q. Is it not a possibility that you are shifting Manitoba into the unfortunate position which you have enjoyed vis a vis Vancouver?—A. I do not think so. It is pretty hard to see all the possibilities. But after all, there is always the supervising Board of Transport Commissioners which could prevent that which might possibly be a discrimination. But I think Winnipeg has not had such a serious freight rate problem as we have had in Alberta and I think that is probably why it looks as if we may benefit more from this, because of geography and distance.

Q. I cannot see any advantage in transferring a burden from one neighbour to another.—A. I do not think that would come about. I would like to leave with you two copies of a sheet of paper which are just sample rates from Montreal to Edmonton and Vancouver.

Mr. JOHNSTON: Mr. Chairman, can these be put on the record?

The CHAIRMAN: We agreed that we would adjourn at 5:30 and in view of the fact that Mr. Evans' name has been mentioned about 50 times by the witness, I wonder if the committee would not think it only fair that Mr. Evans should have an opportunity to cross-examine the witness. I know that the committee wants to be fair.

Mr. JOHNSTON: Mr. Chairman, in regard to your remarks, as far as I am concerned I have no objection to having Mr. Evans appear again, but the only reason his name was mentioned was because of the evidence which he gave.

Now, if you are going to throw it open for Mr. Evans to return, it seems to me only fair that you should throw it open for all the others that have spoken.

The CHAIRMAN: I think we would go on ad infinitum if we did that, but I thought if we had cross-examination perhaps it might finalize in the minds of the committee some of these points under dispute.

Mr. JOHNSTON: It is just a case, Mr. Chairman; if you are going to leave it open for one you will have to leave it open for others.

Mr. Low: The royal commission has already finalized those arguments. I have no objection to Mr. Frawley being cross-examined but I distinctly remember Mr. Evans referring to Mr. Frawley on several occasions and Mr. Farwley did not or did any of us ask that Mr. Evans be cross-examined.

The CHAIRMAN: Well, I am in the hands of the committee.

Mr. Low: I just want to finish. It appears to me that the whole thing has been finalized by the royal commission. What we are trying to do here is to give effect to their recommendations, and all we have done is examine the bill based upon those recommendations and we have heard the evidence and I do not see that anything good can come from cross-examination.

Mr. GREEN: Mr. Chairman, I would like to support your suggestion that we do hear this further examination. I do not know why there should be any hesitation in allowing Mr. Evans to cross-examine on some of these questions which have been raised for the first time.

The CHAIRMAN: Mr. Evans was on his feet. He probably will solve the problem for us.

Mr. EVANS: Mr. Chairman, I do not want to give these proceedings the air of a prosecution and a defence, and I would prefer merely to have the opportunity of replying. I thank you for the interest you have in me, but I do not want to get into any fight with Mr. Frawley.

Mr. RILEY: I think that the same courtesy should be extended to the Winnipeg Board of Trade and the Grain Exchange.

The CHAIRMAN: Well, we will discuss it then in agenda committee, but I kept score and I stopped scoring after the name was mentioned fifty times and it did occur to me as a matter of fairness that that question should be discussed. Would the agenda committee meet, please, immediately we adjourn?

By Mr. Byrne:

Q. Before you call on Mr. Evans I would like to ask Mr. Frawley another question. Earlier this afternoon Mr. Frawley stated that comparing the short haul rates in the United States that they were in every case lower than in Canada. Is it true that there is a federal subsidy in the United States?—A. I do not know of any federal subsidy in the United States. But I do say that through what is called the fourth section of the I.C.C. Act the rate to intermediate points must not exceed the rate to ports on transcontinental traffic.

By Mr. Green:

Q. Mr. Frawley, there is one point in your brief I would like you to explain a little further, and that is on page 8 where about half-way down the page you say:

What the railway does is this: in making a rate from Toronto to Calagry the first component is an arbitrary amount which is the same from any and all points in the Windsor-Sudbury-Montreal triangle.

Then you go on to say there is from there on a full rate which is presumably based on mileage. Now, I am not clear from your brief whether what you are asking is that the rates from Montreal to Fort William or from Windsor to Fort William be put on a mileage basis?—A. Yes, the adoption of one single uniform scale would mean that we would have a mileage basis from Windsor to Edmonton and Montreal to Edmonton.

Q. Your point is simply that these rates from Windsor to Fort William would be based all on mileage?—A. Yes, and have one mileage scale right from origin to destination.

The CHAIRMAN: Will the agenda committee please wait? We will adjourn until 11 o'clock tomorrow morning.

The committee adjourned.

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HOUSE OF COMMONS

Fifth Session—Twenty-first Parliament
1951

(Second Session)

SPECIAL COMMITTEE

ON

RAILWAY LEGISLATION

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

IN RELATION TO

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act,
1933;
Bill No. 7, An Act to amend The Maritime Freight Rates Act;
Bill No. 12, An Act to amend The Railway Act.

FRIDAY, NOVEMBER 16, 1951

WITNESSES:

Mr. C. W. Brazier, K.C., representing the Province of British Columbia;
Mr. Hugh E. O'Donnell, K.C., Counsel, on behalf of Canadian National
Railways;
Mr. F. C. S. Evans, K.C., Vice-President and General Counsel, the Canadian
Pacific Railway Company;
Mr. J. L. Knowles, Special Adviser of Traffic to the Royal Commission on
Transportation and Adviser to the Committee.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

MINUTES OF PROCEEDINGS

FRIDAY, November 16, 1951.

The Special Committee on Railway Legislation met at 11 o'clock a.m. The Chairman, Mr. Hughes Cleaver, presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Byrne, Cavers, Chevrier, Churchill, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), MacNaught, McCulloch, Mutch, Riley, Weaver, Whiteside.

In attendance: Mr. Hugh E. O'Donnell, K.C., Montreal, appearing on behalf of the Canadian National Railways with Mr. H. C. Friel, K.C., General Solicitor for the C.N.R.; Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company with Mr. C. E. Jefferson, Vice-president of Traffic, and Mr. K. D. M. Spence, Commission Counsel, also of the Canadian Pacific Railway Company; Mr. L. J. Knowles, Special Adviser of Traffic to the Royal Commission on Transportation; Mr. J. A. Argo, Assistant Vice-president, Freight Traffic, Canadian National Railways; Mr. W. J. Matthews, K.C., Department of Transport; Mr. J. J. Frawley, K.C., representing the province of Alberta; and Mr. C. W. Brazier representing the province of British Columbia with Mr. M. Glover, Economic Adviser.

The Chairman presented to the Committee the report of the Agenda sub-committee on the requests from representative bodies in Canada to appear and make representations before the committee, concerning the proposed railway legislation now under consideration.

On motion of Mr. Laing:

Resolved,—That the report of the Agenda sub-committee be adopted.

Mr. C. W. Brazier, K.C., representing the province of British Columbia was called, made a presentation, was questioned thereon and retired.

Mr. Hugh O'Donnell K.C., Counsel, on behalf of Canadian National Railways, was recalled, made a further statement and was retired.

Mr. J. L. Knowles, Special Adviser of Traffic to the Royal Commission on Transportation and Adviser to the Committee, was called, made a statement and was examined thereon.

It being 1.00 o'clock p.m. the examination of the witness was adjourned to the next meeting; whereupon the Committee adjourned to meet again at 3.30 o'clock p.m. this day.

AFTERNOON SITTING

The Committee resumed at 3.30 o'clock p.m. Mr Hughes Cleaver, the Chairman presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Byrne, Cavers, Chevrier, Churchill, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Low, Macdonald (*Edmonton East*), MacNaught, McCulloch, Riley, Whiteside.

In attendance: Same as indicated for the morning session.

Mr. Knowles was further examined and retired subject to recall.

Mr. F. C. S. Evans, Vice-president, Canadian Pacific Railway, recalled, made a further statement, was examined thereon and retired.

The Chairman extended the sympathy of all the members of the Committee to the Clerk, Mr. Chasse, for his sudden illness and expressed their best wishes for a speedy recovery.

At 5.55 o'clock p.m. the Committee adjourned to meet again at 11.00 o'clock a.m., Monday, November 19, 1951.

R. J. GRATRIX

Acting Clerk of the Committee.

EVIDENCE

NOVEMBER 16, 1951

11.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum, and while we are waiting for the minister there is a matter I would like to bring before the committee now to save time. Many requests have come in to the clerk and to myself, as chairman, from chambers of commerce and boards of trade across Canada asking to be heard, and your agenda committee had quite a problem on their hands. After discussing the matter fully yesterday afternoon after the committee rose, and thinking the matter over overnight, I now have a unanimous report of the agenda committee to make to you, which I shall read:

The sub-committee has considered the requests from representative bodies in Canada to appear and make representations before the committee, concerning the railway legislation, i.e., Bills Nos. 12, 6 and 7.

The sub-committee submits that the committee should not hear witnesses other than representatives of the two railway companies and the provincial governments (concerned), but that briefs should be received from any representative body in Canada desiring to make representations. These briefs should be printed as appendices to the Minutes of Proceedings and Evidence of the committee if the steering sub-committee so directs.

However, the province of Manitoba has already indicated that part of its case would be presented by the city of Winnipeg, and the sub-committee is of the opinion that this should be permitted.

That is one exception to the general rule and there is a good substantial reason for it. Members of the committee will recall that the witnesses presenting the Manitoba case yesterday indicated that the city of Winnipeg would present part of their case. That is the unanimous report from your steering committee, reached after very serious deliberation. Will somebody move its adoption?

Mr. JOHNSTON: Mr. Chairman, I am not just so sure I could agree with that in view of the fact that the agenda committee has decided that no boards of trade or chambers of commerce would be allowed to appear, and now you make an exception.

The CHAIRMAN: The city of Winnipeg is not the Chamber of Commerce of Winnipeg nor is it the Board of Trade of Winnipeg.

Mr. JOHNSTON: I have no objection to the city of Winnipeg making a representation, but it does not seem fair to me to let one city make a representation and not allow others. This is exactly the same position we were in the other day.

The CHAIRMAN: We have no request, Mr. Johnston, from any other city.

Mr. JOHNSTON: You probably would have had had it been known that the chambers of commerce and boards of trade would be allowed to appear from those cities, but since you have a representation from only one city, and then you permit that exception, it does not seem to me to be quite fair.

The CHAIRMAN: The agenda committee felt that if we open the door wide this legislation could not possibly get to the house this session.

Mr. JOHNSTON: I agree with you and I think we should confine representation to the provinces.

The CHAIRMAN: I thought, coming from Alberta, Mr. Johnston, that you would be the last one to try to retard this legislation.

Mr. JOHNSTON: That is why I think it is quite sufficient to have the provinces represented and then have the presentations from the railways and let it drop at that.

The CHAIRMAN: Would someone move the adoption of the report of the agenda committee?

Mr. CAVERS: It could be that one of the counsel for the other provinces might have entered his argument in the same way, saying, for instance, the city of Vancouver will be represented, and so they would have to come in, too.

The CHAIRMAN: Are you suggesting there is anything premeditated in this?

Mr. CAVERS: I am not suggesting anything.

Mr. LAING: I move the adoption of the agenda committee's report.

The CHAIRMAN: It is moved by Mr. Laing, seconded by the vice-chairman, that this report be adopted. All in favour? Opposed?

Carried.

Now, we have with us this morning to make the case on behalf of the province of British Columbia, Mr. C. W. Brazier, K.C., counsel for British Columbia, and with him is Mr. M. Glover, their economic adviser.

Mr. C. W. Brazier, K.C., Counsel for British Columbia, called:

The WITNESS: Mr. Chairman and members of the committee. In the first place I wish to thank Mr. Chairman and the committee on behalf of the government of the province of British Columbia for according to us this opportunity of presenting to you at this time our views as to bill No. 12, which you are at the present time considering.

Yesterday in his remarks Mr. MacPherson referred to Saskatchewan as being on the fringe of the Canadian economy. I think that if that were so, and just taking a glance at the map behind you, one would feel that British Columbia is almost behind the iron curtain, because we are the most extreme part of Canada from the great industrial centres of Ontario and Quebec, and for that reason the impact of freight rates on British Columbia has been particularly heavy. For many years, we in British Columbia on our normal rates, paid twice as much as did the rest of Canada on normal rates. That was gradually whittled down till a year ago the board finally removed that discrimination against us and put us on a parity with the prairie provinces. I make those remarks to indicate to you that the fundamental position of British Columbia has always been that there should be equal freight rates in Canada so far as that is possible, and for that reason, Mr. Chairman, and because of the position we have consistently taken throughout many years of freight rate cases, we stand behind the bill with one exception, and I think you probably are all aware after hearing Mr. Frawley yesterday what that one exception will be. We take exception to clause 332B, not as the result of any in terrorism argument that Mr. Evans may have presented to this committee but on the principle that we think it is wrong to single out one type of competitive rate in this country for special consideration, and we say that the effect of section 332B will be in fact a discrimination, a statutory discrimination against the province of British Columbia. Now, I think British

Columbia can make out very clearly a case that it has always taken a reasonable approach on these freight rate cases, and one question that arose and was considered by the royal commission was the question of geographic disadvantages. As I said earlier, if any province has a geographic disadvantage in this country, it is British Columbia. This is what I said to the royal commission in my opening remarks when appearing before that commission. This is from page 35 of the Royal Commission Report:

I might say now that in the final analysis the position which British Columbia will take on the question of geographic disadvantages is, in our opinion, that we must accept them as they are, and that all parts of Canada must accept their geographic position. . . If geographic disadvantages in other parts of Canada are to be taken into consideration, then there are geographic disadvantages on our part to which consideration should be given. But we are not asking the commission to give any weight to them.

Now, there has been one geographic advantage that we have had and which cannot be taken away from us, and that is that we are on the Pacific Ocean, and that is the one factor that has made the freight rate structure of this country in any way tolerable for the province of British Columbia.

Mr. Frawley knows that I have been consistent throughout all these cases in my stand on this question. He presented, as he outlined yesterday, a 153-page brief to the royal commission trying to convince them that they should have adopted the American system which is one for one. The royal commission found that that was not necessary in this country and we submit to you that they were quite justified in this conclusion because the situation in Canada is entirely different to that in the United States. In the first place you have a much more active shipping competition from the east coast of the United States to the west coast of the United States, shipping that has at times—and I am not sure whether it is at the present moment—but has always been subsidized by the federal American government. That has provided a means for the coast areas of the United States of getting their goods from the eastern United States cheaply.

Yesterday, gentlemen, I was not quite sure whether the only goods that were shipped into Alberta and British Columbia by rail were canned goods, and to my mind this canned goods example has been played over and over so many times that I think it should be brought more into focus before this committee.

It is true that if a merchant in Vancouver wishes to buy 70,000 pounds of canned goods he can get a rate of \$1.57 from the railways. Mr. Frawley intimated, I would suggest, that people in Alberta were not interested in buying 70,000 pounds; they wanted to buy in lesser quantities.

Now, let us see what the situation actually is if our merchant buys 24,000 pounds—what rate does he pay? At the present moment he pays \$3.89 which is some 66 cents more than the same merchant in Calgary would pay.

There is another rate there too. If you buy 50,000 pounds the rate from Vancouver is \$1.79—still higher than this \$1.57 but, gentlemen, do bear this in mind that neither British Columbia nor Alberta buy only canned goods or rail canned goods into their provinces.

I could give you many examples of other things which I think you would agree are far more important from the railways' point of view and from the economy of the provinces in which we have the transcontinental competitive rates.

I have just picked out a few cases and I think these are important items of rail traffic. Now, in the first case—automobiles; we bring a lot of automobiles to British Columbia over the rails as does Alberta. We pay into Vancouver \$8.83 per hundred pounds. That same automobile goes to Calgary

for \$7.37. Trucks—another important item for both Alberta and British Columbia—we pay \$7.27 and they pay \$6.12. Furniture—desks, office furniture and household furniture—we pay \$4.49 per hundred pounds; they pay \$3.79. Household goods and effects, we pay \$3.52; they pay \$2.91. In each one of these cases we pay more than does Alberta today.

If anybody makes a shipment to anywhere in less than carload lots then the transcontinental rates do not apply. At one time it might have been said that the railways did grant rates which were too low on the transcontinental haul, but, gentlemen, that can be said about other competitive rates in this country and by the enactment—I probably should not be as broad as that and say “every”—but a great many of competitive rates could have fallen under the same criticism, but the bill will provide that that situation cannot be repeated by the enactment of the amended section 331 to the Act.

That situation will be cured now and we have agreed with the other provinces that if competitive rates are too low and the railways are losing money on them, whether they are competitive rates in Ontario, or whether they are competitive rates into Vancouver, they should be eliminated; the railways should not carry any goods at a loss.

I have had this example given to me and I always quote rates with a little fear and trembling because it is a most complicated subject, but at one time I was given this example, that out of the city of Montreal there was a certain rate of 15 cents which was a pick-up and delivery rate competitive to trucks. The rate was 15 cents and it was costing the railways 20 cents to pick up and deliver, let alone carry it on the railways. Now, that situation did develop in this country and it was unfortunate both for the railways and for ourselves that that did, but that was a situation which cannot occur with the new section 331.

Now, I would like—this whole question of transcontinental rates was tied into water competition through the Panama canal and I would like to give you just a little history of these transcontinental rates. The transcontinental rates were in effect to some degree before there was ever a Panama canal. The first case that I am aware of where the question was brought before the Board of Transport Commissioners was in the year 1908, that is, some six years before there ever was a Panama canal open to traffic.

Those rates are not only based on water competition between the two coasts in Canada; they are based on water competition between the two coasts in the United States, they are affected by American railways' rates meeting water competition in the United States and, thirdly, and very important today, they are to some degree established because of competition from foreign manufacturers who have a water haul into Vancouver.

I think Mr. Evans gave you what has been a very prominent example in the last few years of Vancouver receiving iron pipe from England competing with iron pipe from Hamilton. Now, the haul from England is an all-water haul and the Canadian parliament probably cannot affect the price at which the pipe is laid down in Vancouver or what it costs to bring it there, but the Canadian manufacturer competing there may require a better rate in order to compete with that English steel.

Now, those are the three principal factors that bring about these lower transcontinental rates. When anyone suggests that these factors are not present today, I can tell you that just within the last ten days the railways have had to reduce the rates on lumber from British Columbia to eastern Canada, to Montreal, Toronto and to the maritimes. Now, why did they have to do that? Because the rates from Seattle on American railroads were lower than the rates by Canadian rail. The result was that one large eastern Canadian concern made a very large purchase of lumber in Seattle as against Vancouver because he could get a better rail rate out of that place than he could out of Vancouver. That is a factor the railways must take into consideration and surely they should be permitted to retain that traffic in Canada if it is possible.

The consist of my so-called phantom ship was mentioned the other day. Now, these ships did run regularly between Montreal, Three Rivers, Quebec and Halifax in the years 1949 and 1950.

The firm in Vancouver which was operating the ships advised me just a few days ago that they would be back in the business again providing they could get ships, but because of the world situation they are unable at the present time to get ships.

Now, I have a list here of the various items that were on that ship and you just would not believe that they would carry the things they did. Bird seed is one of them, as a matter of fact.

By Mr. Mutch:

Q. Any squirrel food?—A. No, but there is bird seed here. But this is the important thing in the contents of that ship. What were the two items that were heaviest in the cargo? Steel and steel products from Sydney, Nova Scotia. There was almost 2-1/2 million pounds of iron pipe from eastern Canada; there was 1-1/4 million pounds of wire rods and steel bars, and besides that, gentlemen, getting back to our canned goods, there was almost half a million pounds of canned goods on that ship.

By the Chairman:

Q. What was the date of that sailing?—A. That ship sailed on May 5, 1949, from Montreal, and they had regular sailings that year and the following year.

Q. How many ships were there in that fleet?—A. They were running three ships.

By Mr. Macdonald:

Q. How long did it take?—A. I think they required a six-week trip. This information was given to me by the steamship company. They did not only haul to Vancouver and Victoria, they were hauling to San Francisco and Los Angeles, and they advised me that they had a very good cargo of asbestos from eastern Canada going into San Francisco—they had a substantial volume. That is the position of the phantom ship.

Q. Where is she registered?—A. They were chartered by the Monson-Clarke Company of Montreal which, I think, is one of the leading shipping firms of Montreal.

Q. Why did they stop?—A. The information they gave me was that when the operations in Korea started they could not get the ships and until they can charter the three ships for at least a year they do not want to go back into the business because they cannot maintain the service. Like the railways they must maintain their service if they are going to get substantial traffic.

By Mr. Low:

Q. That schedule—was that a six week's round trip or one way?—A. One way.

By Mr. Johnston:

Q. What was the transcontinental rate at the time those ships were running?—A. On what item would you want that, Mr. Johnston? They all vary, you see. On your canned goods, for instance, the rate was \$1.33 on the railways.

Q. And now the rate is what?—A. \$1.57.

Q. So they still are not running so the \$1.57 has not begun to compete with their rate yet?—A. Well, the railways have this situation to meet; they are practically at a level with the American railway rates on canned goods from eastern United States today. I think the American rate today is \$1.64,

and with this new increase that may be granted to the railways within the next month or so our rates may be up above what the American rates are, and if that is so they will have to decrease that rate if they want to maintain that traffic.

By Mr. MacDonald:

Q. Did I understand you to say that these ships were chartered by a Canadian company?—A. Right.

By Mr. Low:

Q. Any liquors in that cargo?—A. No. I will just run down, if you do not mind Mr. Chairman, some of the items here—spaghetti, beans in tins, syrup and extracts, asphalt shingles, toilet tissue and paper towels, glassware, paints, lubricating oil, casein powder, binder twine, medicine, soap powder, household chemicals and cleaning compounds, glucose, syrup in tins, automobiles—there were some there—iron pipe, billiard and bowling equipment, printing ink, black shingles, wet storage batteries, household cleanser, calcium carbide, prepared roofing and wire rods and steel bars. Quite a great variety of commodities was carried there.

By Mr. Johnston:

Q. Did you say these boats would come back again if the rates were raised too high?—A. No, they will come back again if they are able to obtain ships.

Q. Therefore, the transcontinental rates cannot go up much higher or that allows the boats to come back into competition?—A. Well, they will come back into competition, I suggest, when they are able to get boats, whether there is any change in the transcontinental rates or not.

Q. Therefore, these boats do not have a very effective competition in regard to transcontinental rates?—A. That is what we maintain.

Q. And the railway companies are still making a profit on their transcontinental rates?—A. I do not agree they are making a profit.

Q. They said so.—A. What they are doing is they are making a contribution to their overhead which is quite a different thing to making a profit.

Q. I think Mr. Evans said they were doing that and some profit.—A. You cannot say there is a profit on an individual rate.

Q. Is there a loss on it, then?

The CHAIRMAN: No—a margin over running costs.

The WITNESS: There is a certain out-of-pocket cost if it can be determined for making a shipment and the rate is something above that out-of-pocket cost.

By Mr. Johnston:

Q. It would be termed, generally, profit, too?—A. I cannot see your point of view of terming it. To my mind it is not profit.

Q. It certainly is not loss?—A. No. Now, can I just, Mr. Chairman and gentlemen, quote you—I want to make this point too. The railways have never reduced their rates in recent years to the rate charged by the water competition. With the truck competition they usually do bring their rates down to what the trucker is charging, but the railways with the water competition have certain factors which permit them to charge, I think, slightly higher than the actual competitive rate.

By the Chairman:

Q. They take advantage of the time lag?—A. Yes. So, when this ship sailed their canned goods were carried at 75 cents per hundred pounds as against a rail rate of \$1.33. Now, I should point this out, that 75 cents is the shipping

charge and to that you have to add marine insurance, wharfage, terminal and trucking charges, which amounted to $23\frac{3}{4}$ cents per hundred, which means that the ocean rate was about \$1 whereas the rail rate was \$1.33.

If I can just quote to you on iron pipe—on iron pipe the ocean rate was 46 cents a hundred pounds plus somewhat the same charges for wharfage and insurance—another 24 cents. At that time the railways were charging \$1.20.

Now I have attempted, sir, to give you a bit of the background of the transcontinental rates, but I should also point out to you that there are other rates in Canada and here in eastern Canada where the same situation exists.

Now, I was rather amazed at this, that there is a tariff from Ottawa to Toronto, Oshawa, Windsor and London, and that tariff from Ottawa reads this way—this is on page 11 of the Canadian National Railways tariff:

All rates are competitive to meet water and/or motor truck competition.

I doubt whether any of you have been in Ottawa long enough to have seen ships sailing from here.

By Mr. Low:

Q. What about the Rideau canal?—A. That water competition ceased years ago, undoubtedly, but there you have what is alleged to be a water and truck competition tariff. Now, what is the situation there? The rate as I am given it here to Windsor on the water, a distance of 472 miles, is 48 cents. The rate to London, a distance of 362 miles which is not on the water, is 60 cents.

Mr. JOHNSTON: But where did you get those rates?

The WITNESS: That is a nice point. These rates were given to us by the traffic manager of the Eddy Company plant here who I feel should know something about it, he ships on these rates all the time. The rate to London, 100 miles shorter than the distance to Windsor, is 12 cents above the rate for the longer distance.

Now, with that background, I would like to make my position clear on this section 332 (b). I am not concerned with the merchants of Winnipeg who may lose some trading territory if this amendment carries. Those same merchants in Winnipeg opposed us when we applied for the mountain differential. So I do not support this amendment because I submit to you, Mr. Chairman and gentlemen, that this section is wrong in principle. Now, may I just read to you from the Royal Commission report again at page 98; and this is the section that they are dealing with, transcontinental rates, and at the middle of the page you will find this:

Transcontinental rates have been justified on precisely the same grounds as other competitive rates. If the railways cannot get business at normal charges, they may properly offer lower rates. As long as the reduced tolls yield something more than the transportation costs, the railway is better off than if it had refused to reduce the normal rates and had lost the business entirely; the railways obtain some net revenue they would not have otherwise received and this net, however small, reduced the amount which the non-competitive business would have to contribute in order to provide the carrier with its necessary total income.

Mr. JOHNSTON: There is a paragraph on the next page too referring to that.

The WITNESS: Yes. Now, gentlemen, what I want to point to you about that is the phrase used by the Royal Commission, "on precisely the same grounds as other competitive rates". Now, if that is sound, then I say keep them at the competitive rates; do not put another clause in which will once again bring a different factor into consideration when the railways are establishing transcontinental rates.

Now, what does the railway do if it wants to establish a competitive rate between point "A" and point "B"? First, they determine that there is competition, then I think they would try to find out what their competitor is charging, and then they would say to themselves: what rate do we have to charge to meet that competitive rate. Now, will that be worth while? That is, will they make something on that traffic if they carry it? Then, if the answer to those questions is in the affirmative they put into effect a competitive rate. Now, if this provision, 332 (b) is allowed the railways will also have to sit down and see what effect it is going to have on intermediate traffic.

The CHAIRMAN: Mr. Brazier, if you don't mind an interruption—you have all these problems in your mind—there is one point that has been worrying me and it is this: is there not a difference between competition which is localized and competition which has a constant pressure all the way along the route? Now, you see, so far as Vancouver is concerned and so far as the transcontinental rates are concerned you have water competition. In my opinion the incidence of that competition to that port is different from the effect of truck competition. You see, truck competition is a type of competition which is constant right all the way along. Take the case you quoted, from Ottawa to Toronto and London and so on, and the effect of truck competition there. Trucks can stop at any one of these intermediate points and the competitive pressure is constant—I say that for lack of a better word—whereas under the transcontinental rates there is not that same type of constant pressure all along the line.

The WITNESS: Mr. Chairman, you have exactly the same situation in Ontario and Quebec. That is where most of the water competitive rates are.

The CHAIRMAN: Yes, that is why, you see, your London rate was higher than your Windsor rate. I suggest to you that you were mixing truck and water competition when you were referring to that Ottawa-Windsor scale. Where you have water competition you have a totally different structure of rates than where you have truck competition, a type of competition which is constant all along the line.

The WITNESS: Well, Mr. Chairman, competition takes different forms in different parts of the country. And now, I can quite foresee that the great prairie provinces in the years to come will have far better truck competition against the railways than we can ever have in British Columbia where unfortunately for us roads are difficult to construct over mountains, much more so than on the prairies where within a very short time they will have just as good highways as you now have here in Ontario. That is a factor which will come about through geographical factors.

Mr. JOHNSTON: But how many years from now?

The WITNESS: I suppose that depends on how quickly the highways are built. It has just been pointed out to me that some of the most competitive rates in Canada are those which apply between Calgary and Edmonton. What I am trying to convince you of, gentlemen, is that in one clause you are attempting to revise freight rates throughout Canada so that the conditions are the same to all parts of Canada; and in British Columbia we fully agree with that principle; but then you are coming along in a subsequent clause and saying, you may put on competitive rates, but when it comes to one particular type of competitive rates, and it happens that that rate is particularly important to British Columbia, then you must give different consideration to it. Now, I think that is wrong in principle, and yet I am not interested generally as to what happens when revisions of rates are made, whether the transcontinental rates go up or down; but I do suggest to you that it is wrong in principle to make statutory provision in regard to one type of competitive traffic and not in regard to others.

Mr. GREEN: Mr. Brazier, you were just proceeding to outline the five considerations which the railways would be bound to take into account in deciding competitive rates. When the chairman interrupted you, you were making an argument on these consecutive points and I think you had just reached the place where you had given us the considerations which the railway had to take into account in arriving at a rate.

The WITNESS: Yes. In making a competitive rate the railway first determines if there is competition between the two points and if they see there is competition, then they find out what the competitor is charging, and then they sit down to see what rates they would have to put into effect in order to get that traffic and they determine a certain rate; and then they must consider that, as to whether or not it is possible—as Mr. Johnston prefers to call it, and as I prefer to call it—whether or not that gives something over the cost of transportation, if they are going to get something back over and above the actual expense of carrying the traffic; and if they come to the conclusion that the answer is yes to these four conditions they put a rate in and that is the end of it as far as the railways are concerned; that is the only consideration they have to give it. However, under the new Act they will be checked by the railway board of transport commissioners if this provision is enacted in so far as transcontinental rates are concerned. The railways will then have to sit down as sound businessmen and see whether it is going to be worthwhile to put this rate into effect because of conditions they are going to have to meet in other parts of the country. I say that is imposing conditions on these transcontinental competitive rates which do not apply to other competitive rates, that is doing exactly the opposite to what this bill is intended to do, equalize conditions under which traffic is carried in all parts of the country.

This problem, gentlemen, as Mr. Frawley said, has been drawn to the public attention for many years. Alberta has gone before the Board of Transport Commissioners on many occasions and the board has found that the rates were not unjustly discriminatory against the province of Alberta. And why? Because of the port of Vancouver. You cannot move the Pacific ocean into the city of Calgary or the city of Edmonton. It is a geographic disadvantage which Alberta has and which we cannot do anything about.

By Mr. Johnston:

Q. What were the commission's recommendations in that regard?—A. The commission's recommendations are as the bill outlines here. I frankly admit that I did vigorously oppose Mr. Frawley's proposal before the commission and apparently successfully. But I never had an opportunity of opposing the final recommendations which the commission made in its report. They were not suggested by anybody. I think I am quite justified in coming here, Mr. Chairman, and suggesting that the royal commission may have overlooked the principle.

I am not concerned with the effect. After the rates are changed, it may be that they won't have to raise any of our transcontinental rates. It may be that Calgary will get a little lower rate. It may be they are entitled to a little lower rate on normal rates. We do not oppose them on that. But we say: do not interfere in a principle and set up in regard to transcontinental rates, which will affect other parts of Canada.

By Mr. Low:

Q. Did I understand you to say that the commission did not consider the principle that is involved in section 332-B? Did you say they may have overlooked it?—A. Yes, they may have overlooked it.

Q. Now you admit that Mr. Frawley made a very long submission to the commission and used as his basis of argument what happened in the United States, and that the principle of reducing the transcontinental rates was involved in Mr. Frawley's argument.—A. With respect, Mr. Low, let me say that the American system is quite different. It worked out, though.

Q. But the underlying principle is the same?—A. Actually, Mr. Frawley made the point that there have not been many exceptions granted under the section 4 rule; but even the American rules provide that in special cases, after investigation, they may charge a lower rate to the coast points than to the interior points.

Now, I do not know how many applications have been made by the American railways for an exception under that rule; but there is one factor which makes it less important for the coast cities of the United States, and that is subsidized federal steamship service carrying goods around there anyway.

By Hon. Mr. Chevrier:

Q. Have you finished your presentation, Mr. Brazier?—A. Yes, I have, sir.

Q. Then may I ask you a few questions perhaps by way of summing up. As I understand these presentations from the provinces, the representations of the maritime provinces are to the effect that they are in favour of this bill which is now before the committee with the exception of the equalization sector. They fear that this might affect their arbitraries and their rate groupings. And I take it that your position on that is the same as the other provinces?—A. It is.

Q. The province of Manitoba is all in favour of this legislation with the exception of the one and one-third rule.—A. That is right.

Q. The province of Saskatchewan is in full agreement with this legislation with no exception, aside from the fact of course they want a further definition of the \$7 million subsidy.

Alberta is all for this legislation without any exception, I think, and so are you. You have been very clear in your presentation to indicate that you too are all for this with the exception of the one and one-third rule. I ask this question: did you appear with the premiers when they made representations to the Governor in Council in favour of a royal commission?—A. I think I did. I am trying to remember. The premiers went up one day by themselves, but we were here with them.

Q. Yes; and you will remember that the gist of the representations on that occasion was this: we are not satisfied with the decision of the government to make an investigation under P.C. 1487. We do not think that is sufficient or that it will go far enough. We want a royal commission and if we get a royal commission we will take our chances on how it will go. Am I stating the case fairly when I say that?—A. I think pretty well, Mr. Minister.

Q. And the government, after giving it careful consideration, decided to grant a royal commission. Now a royal commission has brought down these recommendations. I shall go a step further. Do you take the same position as the Manitoba representatives, and say that you would much prefer to accept this bill as it is than to have the one and one-third rule out and no bill at all?—A. That puts me in a very difficult position.

Q. I know, but I would like to have a frank answer to that question.—A. I do not feel, unless I first discuss this with the government, Mr. Chevrier, that I could really answer your question. We approached it from the point of view that the committee, or parliament, could adopt the principles of the bill without adopting everything that was in it.

Q. Well, if my question is not a fair one, or one which at the moment is embarrassing for you to answer, let me put it this way instead: am I correct in saying that you would much prefer to go back to the Board of Transport Commissioners and to be dealt with in the same position that you were in prior to the revenue cases?—A. This bill is a step forward and will make our position consolidated, I mean the position which we have been taking before the board.

Q. Will this bill not substantially better your position before the Board of Transport Commissioners in further revenue cases?—A. I would say yes, sir.

Q. May I go on. You, I take it, in your presentation opposed the representations of the Canadian Pacific Railway to amend this bill substantially, as they recommend?—A. Yes.

Q. But you find yourself in full agreement with the Canadian Pacific Railway on their representations with reference to the one and one-third rule?—A. Yes.

Q. I shall make no comment on that.—A. Might I point out that we do not take our stand because of any argument which has been advanced here. We have been consistent throughout the years on that.

Q. Might I say to you with all respect and deference that I think you have over-stated the case on the transcontinental position. Perhaps I am wrong; but here are the reasons.

I understand that in the total freight rate classification there are about, roughly speaking, 14,000 articles?—A. I think so.

Q. And, on the transcontinental rate there are no more than 2,000 articles, roughly speaking?—A. I think that is right, Mr. Minister.

Q. And the articles that will be affected by the one and one-third rule are only an infinitesimal proportion of the 2,000? Am I right in that assumption?—A. Yes, but there is one which may be affected and which is a very important factor both from the railway point of view and ours—that is iron and steel products from eastern Canada to western Canada.

Q. I am not saying that none will be affected, but I am trying to summarize and trying to get from you if I can that the question of the transcontinental rate and the application of the one and one-third rule is not nearly as serious as you would anticipate. The reason for my stating that is that the rule affects only a very small number of movements from east to west. Now, you state—

MR. GREEN: Mr. Chairman, I think this is a most unusual form of procedure which the minister is following. In effect, he is making a speech at the witness.

MR. MUTCH: He is a member of this committee.

MR. GREEN: None of us have been allowed to do that. Just let him ask questions and let the witness answer—instead of the minister trying to build up a case for this section of the bill. I do not think that it is a fair way to proceed at all. The witness is here representing the people of British Columbia who feel that they have a justifiable complaint against this section.

THE CHAIRMAN: Mr. Green, if you will be good enough to check the record of even yesterday's proceedings you will find that the chair allowed you the fullest latitude to express your views in order to clarify a question you intended to ask. Now, I must treat every member of the committee in the same way. I did not check you and I think that every member of the committee should have a right to clarify a question that he intends to ask by making a brief statement. That, I believe, is what the minister is doing.

THE WITNESS: If I could just answer Mr. Chevrier on that one point?

What I tried to emphasize before, but I probably did it very poorly, is the fact that we are not concerned whether it affects one or ten thousand articles—I mean the actual result—and we say that it is wrong in principle; because, you are pulling one case out of the equal rules which apply to all of Canada and saying those rules apply to everything except this one.

I have tried to argue without going into consideration of the effect this section has if it is left in the bill, and we have been fighting for years to get equal conditions for the same type of traffic everywhere in Canada. I think the bill gives us that with this one exception.

By Hon. Mr. Chevrier:

Q. I think I understand your argument which is in effect that there should be no exception to the transcontinental rate, which is a competitive rate?—
A. Yes.

Q. I think I understand your question but I was simply trying to say that perhaps the case is being overstated. However, if Mr. Green takes objection to that I will not pursue it.

I would like you to allow me to quote a statement that has been made by an important manufacturer from British Columbia, and I would like you to comment on it if you do not mind. This is the statement:

Mr. GREEN: Who is the manufacturer?

Hon. Mr. CHEVRIER: It will come out in a moment.

A new turn in transportation costs which brings the Canadian west into focus as a serious industrial contender in the North American economy was cited by Harold Blanchke, president of the Celanese Corp. of America, as a factor which has influenced his company to invest \$82 million as the beginning of an integrated industrial program which is due for early expansion.

This is dated November 14 of this year.

The substantial differential in transportation costs which has cut off the prairies and British Columbia as potential industrial belts, is becoming a thing of the past, he indicated.

And this is his quotation:

'We find it practical to supply our Pacific northwest plants from the Columbia Cellulose Plant at Prince Rupert rather than bring cellulose pulp from Texas . . . Similarly we can deliver output from the Prince Rupert plant to Canadian Chemicals at Edmonton at very favourable competitive rates despite the barrier of the Rockies.'

'Longshore charges have risen so sharply in the recent past that it is now as cheap to ship across Canada by rail as it is to ship around the continent by water, he said. In addition, there is the important advantage of time saved by rail shipments.'

Now, that is not a statement by myself; it is a statement by one of your important manufacturers on the coast?

The WITNESS: Yes.

Mr. LAING: That is a salt water statement.

Hon. Mr. CHEVRIER: It is a statement for what it is worth.

The WITNESS: I think I must admit, and the other provinces must admit that the situation has improved over the years and our competitive position is becoming better. This bill will make it even better still, but as I say as part of Canada we are entitled to equal treatment with everybody else in Canada. That is what I say about these competitive transcontinental rates. We are entitled to have them judged in the same way as any other competitive rate, whether the water competitive rate is one on the St. Lawrence, the Great Lakes, or between coast and coast.

Mr. MUTCH: Mr. Chairman, I hesitate to interrupt but I suggest with respect that the minister has unintentionally misstated the position of the Manitoba people with respect to this clause. It is true that in response to a question

from a member of the committee, Mr. Shepard said that he felt that his government would wish to get those gains which are available in this legislation even though the committee should condone, by insisting on 332B, the abandoning of the principle which is stated in one part of the bill.

The argument of the province of Manitoba was based on exactly the same principle as the argument we have heard this morning—that there is in one and the same Act a violation of the principle which the Act purports to announce as policy. It was not part of their brief, and I think it was an honest answer to a question from the committee—that in his view the government would not throw away some gain because we could not get everything.

By Mr. Laing:

Q. I would like to ask Mr. Brazier what his concern is concerning the definitions given of "eastern territory" and "western territory". Eastern territory is defined as: "any point on the line of railway east of Port Arthur, Ontario, or Armstrong, Ontario."

Now, my understanding of the legislation is that the one and one-third provision is going to make available on transcontinental rates to eastern and western territories the vast intermediate territory that exists between. I take it that the market of the eastern territory and the market of the western territory is going to be the intermediate territory—that are both going to be shooting for that territory.

The definition of eastern territory takes in the entire industrial east, and I would draw his attention to the definition of western territory which states that it means "any point on the line of railway in British Columbia to which competitive transcontinental tolls apply." I am rather of the opinion that the line is in such a position, and that faces were so red that the point was not stated. Could you tell us the point? Is it not Mission, B.C.?—A. I think that is the extent to which transcontinental rates apply.

Q. Mission is a point 28 miles east of Vancouver.—A. Yes, just outside Vancouver.

I know they apply to Victoria where the ships would stop first, but they do not apply to Nanaimo which is just up the coast. It is a very small area.

Q. They also do not apply to our fruit area in the Okanagan which is very important to us. So, you have a position that shooting for the intermediate market the east has all their industrial area but British Columbia is backed right against the coast in a 28 mile strip from Mission to Vancouver.

The CHAIRMAN: Your point is that the competition is highly localized.

By Mr. Laing:

Q. I am just suggesting it is like putting two marksmen on a rifle range shooting at the same target, but putting one at 100 yards and the other at 900 yards—as far as competing for that territory is concerned. I would like to have the witness' comment on that and—A. Could I deal with that one first. I think that definition, of course, arises out of present railway practice of extending the same rate from points from Sudbury east. It gives a very large blanketed area in the industrial east.

Q. Would it help our position if the western territory were made a wider territory from the coast into the interior?—A. It then becomes a question of how far you will extend it.

Q. Probably to take in our fruit area. That would be of big assistance?—A. Yes, that would be a great assistance.

Q. The other point I wish to make is: You dealt with probable losses in railway revenue for which compensation must be sought by the railways. You said this might result in losses and that the losses would be occasioned in the

intermediate territory. Is that right?—A. I think I was speaking more in loss of revenue to the railways if the transcontinental rates are taken out and they do not enter into competition with the steamships.

Q. No loss of revenue would be occasioned by distances in the intermediate territory?—A. If they have those lower rates.

Q. Now, the minister dealt with the fact that there were an unusual number of small items, and we have been endeavoring to obtain the number of items involved. I have tried on a number of occasions to find out the extent to which the traffic is affected and we cannot get any reliable information.—A. I think Mr. Chevrier was giving us a number of articles.

Q. What is the volume involved? Can we obtain some indication of this?

Hon. Mr. CHEVRIER: We were not able to get the traffic so far as the intermediate territory is concerned, but I think we can get the articles moving on the transcontinental rates.

Mr. Mutch: Well, that is meaningless unless you know the volume and the weight. There is a bit of difference between a carload of steel and one of corn flakes.

Mr. LAING: I think, without some information, that one would be equally justified in saying that it involves an unusually large number of articles and may affect the entire picture of the railway revenue-wise. I think there is a principle involved there which may have an effect in other parts of the railway revenues.

Hon. Mr. CHEVRIER: I think we can get some evidence on that a little later on.

Mr. LAING: Thank you very much.

The WITNESS: The transcontinental westbound tariff is a very small tariff. At one time it contained 5,800 items in it. If the railways think they have no competition to meet and want to take it out, we just have to accept that situation.

By Mr. Laing:

Q. Have you any evidence as to the amount of freight traffic moving out of British Columbia at the present time on American railroads?—A. The railways would probably, Mr. Laing, have a better idea of that than we have.

Q. A great amount of paper does move over American railroads?—A. Yes, but what is worrying our lumbermen is not lumber moving out of British Columbia on American roads, but it is American lumber moving on Canadian railways to markets in eastern Canada.

Q. Would you suggest for a moment that the American railroads are in a better position to provide better rates on those commodities because they are making money out of the transport of grain?—A. Their grain rates are higher, I know.

Q. Considerably higher?—A. Yes.

Q. How much higher?—A. I do not know exactly.

Mr. GREEN: As much as 40 per cent?

The WITNESS: I think that is a reasonable estimate of the difference.

By Mr. Argue:

Q. As I understand the witness, the 1½ provision will not necessarily affect too seriously the transcontinental rates to British Columbia. He outlined the various forms of competition that are in effect now, and perhaps boats will be coming back into competition at some future time. I would like to know in what way, if any, the 1½ provision harms British Columbia.—A. Well, sir, I try to take the position it does not matter whether it harms B.C. or it does not harm B.C. It is a question of principle.

Q. My point is that this provision does not harm British Columbia. You are worrying about the principle?—A. I would hesitate to say what the effect of it is going to be when the equalized system of rates is brought into effect, when you have this \$7,000,000 applied to the rates.

Hon. Mr. CHEVRIER: It is impossible to say until the whole equalization plan has been approved by the board.

The WITNESS: And that is why I try to keep it on a question of principle. Alberta and the prairie provinces, of course, have their statutory rates on grain. In British Columbia we do not worry about that.

By Mr. Cavers:

Q. You benefit from that, too, don't you?—A. But it would go anyway if the rates were higher, if they were equalized on Fort William.

Q. But you would insist on having them equalized with Fort William because British Columbia benefits by them?—A. We buy a lot of grain from the prairies in Vancouver which we use for domestic purposes, milling, feeds, and that sort of thing. If the grain is coming to Vancouver for export, the rate is 20 cents—we have not complained about that—but if we are going to use it ourselves the rate is 36½ cents. True, that has been subsidized to some extent in past years, but that is the normal rate we would pay.

Mr. ARGUE: You would like the 36 cent rate reduced to 20 cents?

The WITNESS: That would be of great value to us.

Mr. ARGUE: We would like that, too.

The WITNESS: But that would make the situation in British Columbia different to that in eastern Canada.

Mr. MUTCH: It would be a stiffening of what you admit is a proper geographical handicap.

The WITNESS: That is right.

The CHAIRMAN: Are there any further questions to Mr. Brazier?

By the Chairman:

Q. Coming back again to the point I raised—and perhaps it should not have been raised in the middle of your presentation—in regard to the impact of the competition, did I understand you correctly a few minutes ago, in answer to Mr. Laing, to indicate to the committee that the full benefit of the transcontinental rates was highly localized, that only a very small part of British Columbia received any benefit?—A. Well, not quite, Mr. Chairman. The full transcontinental rates just apply to Vancouver and a certain area around Vancouver and Prince Rupert. Like, Calgary, the interior all gets some benefit from it because their rates are based on the Vancouver rate plus the back haul which would give them less than the normal rate.

Q. But it is still true that the full benefit of the transcontinental rate is restricted to a small locality around Vancouver and just as soon as you get 15, 30 or 40 miles out of Vancouver the benefits start to decrease?—A. That is right.

Q. Well, then, does that not bring up the point which I raised a few minutes ago that it is not fair to compare a competitive transcontinental rate with a competitive trucking rate where the competition pressure is constant all along the line?—A. It may not be, Mr. Chairman—

Q. All right, then, if it is—

Mr. GREEN: Let him finish his answer.

The WITNESS: Could I point this out: We have trucking lines in British Columbia that run between two different points; they do not stop at the intermediate points at all, maybe because there is no traffic to warrant it, but we have trucks that haul between two large centres only.

By the Chairman:

Q. Well, do you not find that where the railways have set up a competitive rate in the locality you are referring to, that that competitive rate is enjoyed largely all along the line?—A. I would say only where there are substantial centres in between the two terminal points.

Q. Only where there is enough traffic to justify the trucks in stopping?—A. Yes.

Q. Is it not true, then that it is unfair to compare a transcontinental competitive rate where the benefits are segregated to such a small district around the ports in question—

Mr. Mutch: You mean the full benefit?

The CHAIRMAN: Right. Is it not fair to compare that type of competitive rate with one where the pressure is constant all along the line?—A. I could not agree with you, Mr. Chairman, I think you will find on all railway competitive tariffs whether it is truck or water, that it will have this instruction on it: Rates or charges in this tariff will not apply from or to intermediate points and must not be used in constructive combination rates.

Q. Are you not referring to point to point tariffs?—A. Yes, they have to determine that there is competition between A and B. If there is no competition in between there they won't give it.

Q. I get your point exactly, but you are talking now about point-to-point rates and I am talking about general truck competitive rates. Take, for instance, Montreal to Hamilton—are you suggesting that the whole district from Montreal to Hamilton does not benefit as a result of truck competition?—A. I really do not know, Mr. Chairman.

Q. Just one more question, if I may—

Mr. LAING: But the same thing would apply from Vancouver back to our Okanagan area where we have truck lines running up there now.

The CHAIRMAN: Then, in that event I would suggest that you will have a competitive rate entirely apart from the transcontinental rate. You will have a competitive rate in that area.

Mr. LAING: Competitive rates within the interior of our province.

The CHAIRMAN: Entirely separate and apart from the transcontinental rates.

Mr. LAING: They arose directly from the transcontinental rates and if they were not there there would not be that truck competition.

By the Chairman:

Q. Just one more question if I may. Do you think that the existing transcontinental rate will be seriously interfered with, having in mind the fact that just the minute they are raised too high the United States rail competitive rates will mean that the U.S. railways will get the business?—A. That is a possibility and one which I think would be better for Canada to occur.

Q. Do you think our railways will let it occur?—A. Let the business go?

Q. Well, will they let the business go? I know it is embarrassing, but I would like a frank answer.—A. I think, Mr. Chairman, it will be simply a matter of sitting down and comparing what traffic they are getting to Vancouver and what they are getting to the intermediate points. If they are going to lose by lowering the intermediate rather than maintaining the transcontinental rates I say they will take them out.

Q. Do you seriously think they will?

Mr. Mutch: That is like asking you if you think they are in business for the glory of God or to make money; that is easily answered.

By the Chairman:

Q. I do not want to unduly embarrass you, but you are an expert and I am totally without knowledge in this field.—A. Taking it on the situation as it exists today there are not many of the transcontinental rates which are more than $1\frac{1}{3}$ times the rate from Calgary to Vancouver—there are not many.

Q. If that is the case, then the railways won't suffer much now—doesn't that follow?—A. Yes, but then I say, why needlessly put a wrong principle into this amendment?

Q. Am I correct in assuming from your evidence that you are worrying this committee about a matter of principle that won't cost anybody anything?—A. I am worried about this because I do not know what the situation is going to be in five or ten years and we are going to be faced with it. It is statutory and it will remain there possibly for all time on the statute books and I say it is wrong to put it in.

Q. Of course, if it should arise you could always get redress by going to the board?—A. Not if it is in the statute books.

MR. MUTCH: When did we last amend the Railway Act by statute, Mr. Chairman?

The CHAIRMAN: I will let you answer that one.

MR. MUTCH: If they take as long the next time most of us will be dead.

The WITNESS: We remember in British Columbia how long it took to remove these discriminations with our mountain differential—over fifty years before we finally got rid of it, and we would not like to see any legislation—a statutory provision such as this, which would or might for some time affect our rates.

The CHAIRMAN: You have been very patient in answering questions and on behalf of the committee—

MR. GREEN: Mr. Chairman, before you finish—

By Mr. Green:

Q. Mr. Brazier, the rates apply to the lower end of Vancouver Island, do they not?—A. Yes, Victoria.

Q. The transcontinental rates?—A. Yes, to Victoria.

Q. And what proportion of the population of the province of British Columbia is concentrated in the area which gets full benefit from the transcontinental rates?—A. I would say a little better than one-half of the population of British Columbia.

Q. About one-half of the population of British Columbia is in Greater Vancouver, is it not?—A. Yes.

Q. Then in addition to that you have the Fraser Valley and you have Victoria and Greater Victoria and Saanich: Now, would those taken together not constitute at least three-quarters of the population?—A. I would think so, Mr. Green. There would be somewhat over 700,000 people in that triangle.

Q. And the other people of British Columbia benefit although not to such a great extent?—A. That is right.

The CHAIRMAN: Well, Mr. Brazier and your associate, on behalf of the committee—have you a question?

MR. EVANS: I was going to suggest to you that I could answer a question which you put to Mr. Brazier which he could not answer. It had to do with your question as to whether—

The CHAIRMAN: I am in Mr. Brazier's hands. Would you like Mr. Evans to answer a question for you?

The WITNESS: I would certainly like the committee to have all the information it can.

Mr. EVANS: The question you asked, Mr. Chairman, was whether there were cases of ordinary competitive rates which did not apply to the intermediate points and there is an example already on the record. The fifth class rates on canned goods were set out in a table I gave the committee, and I mentioned the fact that there were competitive rates by water in the summer time and by truck in the winter time between Hamilton and Montreal on canned goods. Now, those competitive rates do not apply from Hamilton to intermediate points; they apply only as from Hamilton to Montreal.

The CHAIRMAN: Mr. Brazier and your associates, on behalf of the committee I would like to thank you for your very helpful presentation.

Hugh O'Donnell, Esq., K.C., Counsel, Canadian National Railways, re-called:

The WITNESS: Mr. Chairman and gentlemen, as far as the Canadian National Railways are concerned I do not think there is anything at this point that we could usefully add to what we have said. We have no objection to the principle of the bill. There is only one thing which occurred to me which might be of use to the committee and that is with respect to the matter of transcontinental rates which was mentioned yesterday when it was indicated that possibly the Canadian National might have something to say on that. With respect to that our position is that we are still in agreement with the principle of the bill, still in agreement with what we said at the outset. Our view of the importance of this one and one-third rule is not entirely in agreement with that of our friends of the Canadian Pacific Railway, but then there are a number of things on which we have not always been in agreement with them. We respect their views, but on our appreciation of this situation that recommendation would not have the drastic result that the committee might have been led to believe it would. There are only a relatively small number of rates involved. I think we might just refer to the language of the Royal Commission itself where, at page 97, it says:

"The avowed policy of the railways has been to publish transcontinental rates applicable to commodities which ordinarily move from coast to coast and which are suitable for transportation by steamship. Many of these rates are higher than the rates to intermediate points and, therefore, cause no complaints. Others are very little lower than the rates to intermediate points. There are, however, some transcontinental rates (relatively few in number) which are very low in comparison to the rates to intermediate points. These have given rise to bitter complaints. A few examples will make the situation clear:"

And those are the rates which are pointed out in the report. You will see them at the top of page 98.

Again, at page 100 of the report, the commission goes on to say:

"As long as the competition exists the railways should be permitted to meet it. But when meeting the competition creates anomalies of the character indicated above and causes such long standing grievances, it is desirable that a solution be found which will enable the railways to meet the competition and at the same time eliminate, at least to a substantial degree, the anomalies created."

The purports to reflect the thinking of the commission as to the elimination of these anomalies, but in our appreciation of the situation there are relatively few rates which may require any drastic treatment. I think it was mentioned that in this proposed Act the matter is to be segregated as the rates are under this transcontinental competitive tariff which was referred to both by the

minister and by Mr. Brazier, they have to be segregated in order that they may be dealt with effectively. The tariff deals merely with these transcontinental competitive rates and no others. I believe there are only some 200 items mentioned under this tariff covering about 2,000 articles out of 14,000 odd in the general freight classification. Now, the Canadian National position is that in present circumstances not many of these rates will require drastic treatment but as Mr. Brazier said, if competition did not exist the railways would be warranted in withdrawing the rates, and when it does exist in adjusting them up or down, the same as any other rate. By and large however the Canadian National does not think there will be need for any drastic disturbance of the position at Vancouver.

Now, I might just indicate to the committee that the rates which have caused the complaints, and examples are given in the commission report, are rates which in the main are relatively very low rates. They are in the tariff here, if anyone would care to look at it. There are relatively few items, relatively few of these rates which would be affected; and, as I think Mr. Brazier pointed out, there are very few rates which would not be higher at Vancouver than rates to the intermediate points, such as in the \$3 rate, \$2.74 rate, the \$4 rate and so on. It is only the very low rates that might require adjustment; and even then the commission seems to indicate the adjustment should not be very drastic. At the present level of rates we do not see that there will be need for any wholesale change in the transcontinental rates, or any drastic changes or adjustments in the transcontinental rates, but there might be conditions later under which changes would come about where these rates, like all others, would have to be reviewed. That is all I have to say, Mr. Chairman.

By Mr. Laing:

Q. Could you identify for us the items now under the old rates?—A. At pages 98 and 101 of the report are shown the rates about which there is particular concern; but on looking through the tariff you will see that there are relatively few of them that will be affected. These are the sample rates. These are the ones with respect to which the bill is intended to give some relief.

By Mr. Green:

Q. How many rates are there which will be in the same category as these, Mr. O'Donnell?—A. I have not gone all through the tariff, Mr. Green, but I would think that there would not be more than 10 per cent that would need to be looked at and there would be relatively little adjustment of them required one way or another.

Q. And you say there are only about 20 items altogether?—A. Between 20 and 25 would cover probably all the items concerned in the tariff.

Q. I asked that because Mr. Frawley told us that it would affect quite a large number of items.—A. Well, sir, these are the ones which they particularly emphasized. These are the ones which people have reference to when they are endeavouring to support the point they wish to make about it. So far as the Canadian National Railway is concerned, there are relatively few of them which would require any very drastic treatment.

By Mr. Gillis:

Q. Does that involve a big percentage of freight movement?—A. I haven't the figures on that, but generally speaking I would not anticipate that the bill would cause any wholesale disturbance such as has been suggested by the arguments which have been put forward by my friends. However, there will be the odd rate in there which like any other rates will require to be taken care of.

Q. Always upward?—A. No sir, not always upward, you might have such competition that the rate might have to come down; some even withdrawn.

The CHAIRMAN: Are there any other questions?

Hon. Mr. CHEVRIER: Might I ask you one question there?

The WITNESS: Yes, sir.

Hon. Mr. CHEVRIER: According to the opinion expressed by Mr. Green yesterday there might be some transcontinental rates which would have to be withdrawn or changed in so far as the Canadian National is concerned. What is the position there?

The WITNESS: My information and instructions are that when the draft bill was made available, as when the report came out, the Canadian National reviewed the situation and they approved of it as pointed out to the committee this morning.

Mr. GREEN: Would you give us any undertaking that the transcontinental rates would not go up?

The WITNESS: We could give no undertaking in that regard with respect to any particular rate. I think you have to take it for granted that the railways are out to get all the business they can, even business that they can get on a basis that will make a contribution to their overhead, not necessarily a profit, but a contribution to their overhead; they are going to take it, they will take anything that is going to make money for them.

Mr. LAING: Even in Vancouver.

The WITNESS: Even in Vancouver. I might say that individual items require adjustment and that is being done every day in the rate-making world. Competitive rate changes are constantly being made, there are about 25,000 of them a year that are continually going up or down.

Hon. Mr. CHEVRIER: Will the revenue position of the Canadian National Railway be affected by the application of the one and one-third rule?

The WITNESS: It will be changed one way or the other with regard to individual rates and we see no reason why it should not be. General revenue adjustments are not made on the basis of changes in any particular rate, as has been said by a number of witnesses.

Mr. BYRNE: Having regard to the very strong representations made by the witness from Alberta here yesterday, do you agree with everything he says with regard to the unreasonableness of the present rates, about the railways being used unreasonably having regard to the fact that you have a favourable rate with respect to grain movement to the west?

The WITNESS: I do not want to get into that old debate as to what should have been done with grain rates and the Crow's Nest Pass rates.

Mr. BYRNE: I am not suggesting that anything should be done about that question. I just wanted to know if you thought the situation there is as unreasonable as was indicated?

The WITNESS: It is very unreasonable in some cases; in others, reasonable, so reasonable that we waited much too long before asking for a change. I think we might have a word from someone else other than myself with regard to that.

The CHAIRMAN: Thank you, Mr. O'Donnell. We will now call Mr. Knowles.

Mr. L. J. Knowles, Special Adviser of Traffic to the Royal Commission on Transportation, called:

The WITNESS: I am afraid, Mr. Chairman and Mr. Minister, that my remarks are going to be a little disjointed because I did not anticipate going

on until the end of the entire series of hearings so that I might advise the committee on points raised therein. Some of those points have been cleared up and some have not.

I would like to say a few words with regard to transcontinental rates. As the committee knows, I was adviser to the royal commission on traffic matters. I was detached from my position as freight traffic manager of the Canadian National Railways in order to take that position, where I remained for two years. Then I was asked by the minister to act as adviser to this committee in as impartial and unbiased a manner as I could.

Before I went to the royal commission, inquiries were made by that commission of practically all counsel who would appear, concerning the fact that I was going to be their adviser. There were no objections to my giving advice, notwithstanding my technical position as freight traffic manager with the Canadian National Railways. And from what I can find out, there was not a single objection to my advising the royal commission.

Of course, I cannot tell you what took place inside the commission. That is subject to the Official Secrets Act. But I can say this: that the commission called upon me for advice on all traffic matters that were brought out in the hearings. With some of them they agreed with me, and on some of them they disagreed. I cannot tell you which was which. But I do want to point out that with regard to transcontinental rates, I do not fear the results that other people seem to fear with regard to this one and one-third rule.

I would like to point out to you just what the royal commission had in mind in regard to that matter.

On the one hand, we had the railways wanting to meet water competition in Vancouver on some articles which they had to carry at extremely low rates. I have in mind one rate, on iron pipe, which was originally 75 cents from the east to the west. It had been increased, I think, to about \$1.32 or something like that. The manufacturers in the east found that iron pipe was coming in as ballast at 60 cents from Liverpool and London to Vancouver.

I sat in at the discussion in connection with the making of that rate. We finally concluded that we could carry it at a rate of \$1.20 without too much trouble. So that rate was established. But the manufacturers in the east lost the next contract in connection with the sewer project at Saanich, B.C.

I left my position to go to the royal commission after that rate had been established. But I found out afterwards that it had been reduced to \$1. That rate is an extremely low rate and I expected that it would cause trouble at intermediate points.

Now with regard to canned goods. The rate at the time the commission sat was \$1.47, and there were most bitter complaints in Alberta, as there had been for years, about the rate of \$2.88 to Calgary and Edmonton. Mr. Frawley suggested the same rule which was applicable in the United States, and that the rate should be applied to the intermediate points to remove this discrimination against Alberta. But I want to point out what the commission said with regard to that.

By Mr. McCulloch:

Q. At what page does that appear?—A. At page 100 of the report of the royal commission, where I read as follows:

“To apply transcontinental rates as a ceiling to intermediate points would in effect be placing such points as Calgary and Edmonton at the sea coast for rate purposes. Alberta does not suggest that extreme remedy.”

I think that Mr. Frawley must have overlooked something in the record of the royal commission because I think I heard him say that they would not

object to a 10 per cent to 15 per cent higher rate at intermediate points. In that he was not sticking to the strict intermediate rule.

"Alberta does not suggest that extreme remedy. It says in effect that if a low rate is established to the sea coast then the rate to intermediate points such as Calgary and Edmonton should not be higher than a fair and reasonable rate established by comparison. This, according to Alberta, means that if the railways can make large reductions in a rate direct to the sea coast on a basis related to the lower cost of steamship service and still make some profit, the rate to the intermediate points such as Calgary or Edmonton cannot be twice as high as the rate to Vancouver, without indicating an exorbitant profit.

A similar situation was dealt with in the United States by denying all long and short haul relief to the American railways, so that if they desire to participate in transcontinental traffic they must apply the transcontinental rate as a maximum to intermediate points."

Mr. Brazier mentioned the fact that the present rate on canned goods is \$1.57. I think he said it was something like \$1.64 on the American railways for the rate which carries canned goods from the east to Vancouver because the Great Northern Railway applies to Vancouver the Seattle rate. But Mr. Brazier did not say that the \$1.64 rate applies to all the intermediate points in the United States. That was what Mr. Frawley complained about and what the commission had to deal with, namely, that we had a rate of \$1.40 at that time to Vancouver, which was a reduction of 60 per cent below the normal rate.

Now I do not think I am saying anything out of order when I state that the commission decided that they were going to find a solution for every one of the problems which was put up to them. They decided that they were not going to dodge anything.

They could not look this situation in the face and say that it is fair to charge \$2.88 to Calgary and Edmonton and \$1.40 to Vancouver. I searched around for some method of seeing what other people did with regard to that situation and I found in the British legislation, I think it was the Road and Rail Traffic Act of 1933, that any railway in the United Kingdom could not cut a rate to meet competition more than 40 per cent without having to get the approval of the Rates Tribunal, and that approval might carry with it the fact that you would have to put in some sort of a similar rate where everybody else could get the benefit of it.

I do not know just what they would do over there, but the commission was faced with this situation on the one hand—this extremely low rate to Vancouver which the railways wanted retained and British Columbia wanted to retain and yet they had to take into account this very bitter complaint from Alberta.

Now, the final suggestion was this—to apply one-third higher to the intermediate points, and when that conclusion was reached by the commission I checked out the situation and I did not think it would hurt the railways very much from my knowledge of making rates for forty years for the Canadian National and Canadian Pacific—I was with the Canadian Pacific seven years before I went to the Canadian National.

We have heard a lot about the way they do things in the United States and I want to call attention to the fact that in the first decision of the Interstate Commerce Commission on these transcontinental rates they provided that the rates to the intermediate points might be percentages higher than to the coast, and the original Spokane decision, as it was called, provided for a rate 25 per cent higher at the intermediate points. The royal commission made it 133 $\frac{1}{3}$ per cent.

Now, the Interstate Commerce Commission finally came to the opinion that the transcontinental rates should apply to the intermediate points. I do not know why. I can only pass my opinion on it that it was due to the fact that the transcontinental steamship lines were put under their jurisdiction and they decided that they would have to make the rate of the railway apply to intermediate points; otherwise the railways would have had much lower rates to the coast in order to meet the steamships, and they wanted to protect both of those carriers.

I want to point out that for several years the original decision of the Interstate Commerce Commission whereby the rates to intermediate points at Spokane and Salt Lake City and Denver and places in that area were 25 per cent higher than the rates to the coast.

Now, the royal commission was faced with all those things and so they had to make a decision and say that the transcontinental competitive rate would apply to intermediate points or they had to say that you could still carry on this unreasonable discrimination against Alberta, and I think that I am not defending the commission—I am not called upon to do so, but I think it arrived at a reasonable solution and one that won't hurt anybody.

We have heard about iron and steel. Now, the fear is there that if this rule is applied the railways will withdraw their low rate on iron and steel. I would like to point this out, that apart from the transcontinental commodity rates there are no normal commodity rates from the east to the Vancouver area. It has not been necessary to publish them because there has always been some sort of competitive rate based on water competition, or American competition, or British competition.

On iron and steel, if the competitive transcontinental rates were withdrawn the railways would have to put in a normal iron and steel rate because that is a raw material and under the equalization provisions of the bill the Board of Transport Commissioners has got to take a look at all the commodity rates in effect in the east, and if there are only class rates in the west they have got to consider whether commodity rates will be given to the west. I know the railways in their own interests—at least if I were occupying the position of freight traffic manager, I would consider making commodity rates on steel that would enable people in British Columbia to get Canadian steel and use it.

By Mr. Green:

Q. Would that rate be as low as the transcontinental?—A. Not necessarily. You cannot make a freight rate for 3,000 rail miles as low as the steamship rate, in my opinion.

By Mr. Laing:

Q. Was there not an application for an increase in that rate in 1941 at which time the rates were fixed?—A. I do not recall.

Q. And then we went on during the war to do the best job in all Canada on shipbuilding. I think there was an application for an increase of that rate on piping.—A. Well, I do not think you need an application to increase a competitive rate—just file it in the tariff with the board and if nobody objects to it and you do not have to explain it, it goes into effect. There is no difficulty about increasing that rate.

HON. MR. CHEVRIER: The rates were frozen from 1941 to 1947.

MR. LAING: But just before they were frozen there was contemplation of an increase on piping.

THE WITNESS: I think there were some increases just before the rates were frozen.

By Mr. Green:

Q. Is there a normal rate on iron and steel now?—A. No, sir.

Q. They go in on the transcontinental rate?—A. Yes.

Q. You are suggesting that if the transcontinental rates were withdrawn they would probably get a commodity rate?—A. As far as my advice to the Canadian National Railways is concerned, it would be to put in a reasonable commodity rate on iron and steel instead of the class rates.

Q. It would, however, be higher than the transcontinental rate?—A. Oh, yes, I think it would.

Now, we heard about the rates on lumber. Those were mentioned this morning and Mr. Brazier correctly stated the rates on lumber had been reduced from Vancouver to the east to the Seattle basis. Now, the reason for that is very simple. The Board of Transport Commissioners did not consider it necessary to put maximum increases on any commodity. We had that argument before the board every time we have a rate case. It is not settled yet, but the Interstate Commerce Commission did put a maximum on lumber from Seattle. Originally, the Vancouver rates to the east were the Seattle basis, and just because of the action of the Interstate Commerce Commission putting a maximum increase in the Canadian railways eventually had to reduce their rates to the Seattle basis. That is all the reason there was for that.

Mr. GREEN: That is what you call a commodity rate?

The WITNESS: It is a commodity rate, yes.

I think that is about all I can tell the committee to clear up the point that I did not think had been covered. I must say I am not fully prepared with regard to other matter such as arbitraries and unjust discrimination, competitive rates, grouping, and so forth. But I would say that after lunch or on Monday I would be very glad to discuss with the committee the other things that struck me as not having been covered.

By Mr. Laing:

Q. Mr. Knowles, you indicated some precedent for the one and one-third rule by the British system of setting a floor of 40 per cent reduction on any competitive rate in England?—A. It is not an exact parallel, Mr. Laing. It is simply that I was searching around to find to what extent a normal rate could be cut and still come within the law.

Q. In the case of the British reduction on which the floor of 40 per cent was established, did that apply to all competitive rates?—A. It applied to all competitive or commodity rates. If they cut the standard rate more than 40 per cent they have to get the British tribunal's permission—because the British tribunal in effect has said: after we have prescribed a normal and reasonable rate you are not going to be able to cut that more than 40 per cent without infringing on your cost. You are carrying at less than cost—and that is the stopper they put on it.

Q. There is a similar protection in the bill now for the Canadian rate?—A. That is the way I feel about it. If you are going to cut what is assumed to be a reasonable rate by 60 per cent then you are throwing a lot of burden on somebody else to pay for it.

Q. A compensatory position?—A. That is correct.

The CHAIRMAN: You did find an exactly parallel position in regard to the 25 per cent mark-up on transcontinental?

The WITNESS: Exactly, yes.

Mr. GREEN: The position is not parallel because of the difference in the shipping situation as you explained yourself. You said, yourself, that the Americans had done that in order to help their shipping?

The WITNESS: I think perhaps there is a little difference in the shipping situation, Mr. Green—there are more ships carrying transcontinental or what they call inter-coastal freight in the States.

The CHAIRMAN: I may be wrong, Mr. Green, but my recollection is that Mr. Knowles said that the reason the intermediate rates came to parity with the transcontinental rates was because of the change in the shipping situation; and that prior to the time the government owned the ships the mark-up was 25 per cent?

The WITNESS: No, sir, it was not the government owning the ships, it was the government putting them under control.

The CHAIRMAN: Under control, yes, and that is when the intermediate rate came to parity with the transcontinental?

The WITNESS: That is about the time they did it.

Mr. GREEN: The situation has always been that the American shipping was much different than Canadian.

The CHAIRMAN: Is it agreed that we adjourn until 3.30 and complete Mr. Knowles presentation and then we may get on with some sections of the bill?

Mr. GREEN: What about the completion of the Manitoba presentation?

The CHAIRMAN: They cannot be heard until Monday morning but we will sandwich their presentation in at that time.

Mr. GREEN: You are not going to go on to consideration of the bill without completing the presentations?

The CHAIRMAN: We know what sections they are going to talk to, that is transparently clear. Also, Mr. Evans asked if he might have the opportunity of answering Mr. Frawley, and we can hear that answer this afternoon.

Mr. EVANS: Will I be confined in my answer merely to Mr. Frawley?

The CHAIRMAN: I think, Mr. Evans, that the committee has generally given pretty wide latitude and we will not unduly circumscribe your reply.

Mr. EVANS: You want me to be here at 3.30?

The CHAIRMAN: Yes.

Mr. EVANS: I may say that it is a matter of some difficulty because I have not seen the transcript of the proceedings since I gave my evidence.

The CHAIRMAN: We have another volume in now.

Mr. EVANS: I doubt if I can read and prepare—

Hon. Mr. CHEVRIER: Mr. Knowles is in the same position.

Mr. EVANS: But Mr. Knowles is not taking sides, I gather.

Hon. Mr. CHEVRIER: I hope you are not.

Mr. EVANS: I am sort of a lone wolf.

The meeting adjourned.

AFTERNOON SITTING

NOVEMBER 16, 1951.

3.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. Mr. Knowles, would you carry on, please?

Mr. L. J. Knowles, Traffic Advisor to the Department of Transport, recalled:

The WITNESS: I have a few remarks to make with respect to three or four subjects that I think the committee might need a little light on, and that is the question of eastern basing arbitraries, groupings, competitive rates and reparations. With regard to the arbitraries, which are also bound up with the question of groupings, I cannot see the object of having two or three or more scales. I came to the conclusion, after tinkering with the freight structure for 40 years and trying to justify differences in it, that the best thing to do is to have a uniform mileage scale of class rates and a uniform class of commodity rates to start with, and I am not alone in that idea. The Interstate Commerce Commission in the United States has just published its final decision in a case that took 12 years in regard to their class rates and here they have devised a very simple scale running from 5 to 3,000 miles, and other class rates can be made by percentages of them. At one time the United States had huge groups: the whole of New England was in the Boston group, and they had the New York group, the Baltimore group, and the Philadelphia group. They split all that up because there were so many complaints about short haul shippers paying the long haul group rates, so that they are now down to 10, 20 and 25 mile groups.

I do not want the committee to get the idea that because you have an arbitrary method of basing rates which runs from Sudbury down to Montreal and around to Windsor and including even Sault Ste. Marie—they are very bitter about being in the western end of the group and paying the same rates as Montreal—

Mr. GREEN: Who is complaining?

The WITNESS: The city of Sault Ste. Marie.

—that you can get a lower rate always on an arbitrary. Now, I have checked some of the rates which have been filed before the board in this equalization scheme. From Hamilton to Calgary the arbitrary makes the first class rate \$6.16, and the mileage rate, \$6.12. From Toronto to Calgary the arbitrary rate is also \$6.16, and the mileage rate is \$6.06. Now, from Sudbury, the rate to Winnipeg is \$4.04 under the arbitrary and \$3.42 under the mileage rate. I think the rates should be subject to reasonable groupings, and that has even been started because one railway put on record before the royal commission that it would make a northern Ontario group, that is split everything north of Parry Sound and North Bay into another group. It will probably have to have another one from Sault Ste. Marie. The suggestion has also been made that even in this new rate scale the first eight groups be abolished and we start off with one 40-mile group. So it does seem to me that when you get into a situation like that the only way to cure it is a reasonable mileage scale applied for everybody. I cannot see the object of having two scales even though they are equal east and west of Fort William, and if you have a shipment for 200 miles west of Fort William you charge, say, a dollar; if it is two hundred miles east of Fort William you charge a dollar, and then when you have a shipment 100 miles east of Fort William and 100 miles west, the joint rate going 200 miles through that territory

means that we are going to charge you the local rate west of Fort William plus another arbitrary rate east of Fort William. I cannot see the object of that at all. My opinion is that one uniform rate scale is the proper thing to do. That is all I have to say to that.

Mr. GREEN: Do you include the maritimes in that?

Mr. BROOKS: May I ask how that would affect the maritimes?

The WITNESS: I find myself in a very difficult situation in regard to the maritimes. It is a matter of legal interpretation as to whether the Maritime Freight Rates Act cuts off at Levis and says, "from now on, July 1, 1927, you cannot change the rates". I do not know. It is a matter for the courts to determine. I cannot say much about that.

By Mr. Brooks:

Q. Would you suggest an amendment to the proposed legislation to clarify that?—A. I have not suggested any.

Q. I ask would you?—A. Would I support it?

Q. Yes.—A. I do not know; it is up to the committee to decide.

Q. Would you think it was necessary?—A. I would think it would be a good thing to have the matter transferred to the Board of Transport Commissioners for investigation. I will tell you why. I was very much struck with this 35 cents arbitrary from the Halifax group over Montreal that Mr. Matheson mentioned. I have in mind that western Canada will eventually get some pretty big industries around Edmonton based on the petroleum industry. Now, if that industry wants to ship east to the central market, for the distance from Edmonton over Winnipeg it means an arbitrary \$2.70 compared with that 35 cents from Halifax over Montreal. Now, I think the board should have power to deal with that sort of thing.

That is about all I could say with regard to the maritimes except this, that there are provisions in this bill that permit the board to make exceptions to the uniform scale, and I think some of the maritime arbitraries could even be justified on the basis of water competition under the competitive clauses in the Act. I think there is plenty of protection for the maritime provinces if they were willing to let the whole thing go to the Board of Transport Commissioners and let them work out something.

Now, I have a few other remarks to make with regard to competitive rates. I do not see any harm at all in the bill requiring information to be supplied to the board with regard to competitive rates. If you are going to set up a reasonable rate structure uniformly, I think that when a freight traffic manager sits down with a shipper who has threatened him with truck competition and makes a rate, the least he can do is to put down on paper why he is making the rate, what his competition is, and send it in to the board. I cannot see any harm in this part of the legislation; as a matter of fact, all it is is a combination of the board's tariff circular on competitive rates and the rules of the board with regard to agreed charges. If it is difficult to get the information, the board can relieve the railway company of supplying it, but I do think there is an obligation on the railways to supply a reasonable amount of information with regard to competition if this uniform rate structure is not to be made a farce of in six months after it is put into effect.

With regard to reparations, I think perhaps I ought to explain a little to the committee what this means. In the Interstate Commerce Commission Act there has been a punitive clause since 1887 based on the malpractices of the United States railways before that time with regard to rebates that required them to maintain their tariffs, and at the same time if any of these tariffs were found to be unreasonable, some time after the shipments were made—the period was up to three years originally but it was reduced to two not so long ago—and if

the shipper could convince the I.C.C. that he had been charged an unreasonable rate then the railway would have to pay back everything they overcharged him for two or three years, and they get a reparation order from the I.C.C. to provide that. Now, the Canadian railways have a considerable amount of mileage in the United States. They join the United States carriers in joint rates. It is not infrequent for a shipper, or a group of shippers, after shipments have been forwarded for two or three years, to file a complaint with the I.C.C. and say the rates were unreasonable, and if they can get a reparation order, why the railways have to pay it back. We have had those same complaints in connection with joint international rates between Canada and the United States. There is one now made by a war agency on 8,000 carloads of aluminum from Canada into the United States. There is nearly a million dollars in reparations involved. If the shippers, or consignees, can convince the I.C.C. that those claims should be paid, they get an order and immediately there is a dispute between the American carrier and the Canadian carrier as to who is going to pay that. The American railroads try to get the Canadian carriers to join in those reparation cases time after time. We have always stood on the provisions of the Railway Act which says that if a rate is once in effect it is the legal rate and you cannot make rebates on it, legally or otherwise.

Now, my view is that if the shipper during the course of his business does not find out within two years or five years or six years, as it is in this country, that his rates are unreasonable I do not think he should complain that he found it unreasonable two to five years or six years later. Mr. Evans fears that there is a possibility of that sort of thing coming out of the cancellation of the standard mileage rate. I do not see any objection to an amendment that will make it clear that whatever rate is authorized concurrently is a fair and reasonable rate, and there should be no question of reparations afterwards. Some of these claims in the United States now amount to \$2 billion and if allowed they would wreck the economy of all the railroads in that country.

By Mr. Laing:

Q. Are the Canadian railways joined in these suits?—A. Yes, they are. Now, that is all I think I can say in regard to elucidating the points which are not entirely covered by the submissions and if there are any questions which you would like to ask I would be very glad to answer them, or if any member of the committee wants to sit down with me at any time afterwards and get into his head any of these intricate things in regard to freight rates I will be glad to do it with him.

By Mr. Green:

Q. What about section 18 of the bill?

The CHAIRMAN: The subsidy clause, Mr. Knowles.

The WITNESS: Well, what do you want me to tell you about that, Mr. Green—the reasons why it was put in?

By Mr. Green:

Q. No, what are your suggestions about the way that new law should be worked out from that? There seems to be a good deal of concern for fear the full amount of the subsidy will not be reflected in a reduction in rates.

Hon. Mr. CHEVRIER: I have an amendment that will be produced at the proper moment.

The CHAIRMAN: Mr. Knowles will be in attendance and we will call him if you wish after the proposed amendment is tabled.

By Mr. Argue:

Q. I have a question I would like to ask the witness. He said this morning that he did not think the $1\frac{1}{3}$ provision in the bill would hurt the railways very much and then he dwelt on the experience in the United States. I wonder if Mr. Knowles could give the committee his opinion as to what the effect might be on the railways if the one-third were reduced to parity?—A. I say it would have a very serious effect not particularly with regard to a tremendous reduction of revenue, because there are not very many of these transcontinental rates which are lower at Vancouver than $133\frac{1}{3}$ —in fact many of the transcontinental rates, I would say the bulk of them today, are higher to Vancouver than they are to Calgary and Edmonton. There are a handful of them, though, below \$2, which are very hard to deal with and cause a lot of trouble, but answering your inquiry I would think the railways would fear the effect of that at Vancouver and would probably take out those rates that are below the rates to Calgary and Edmonton if they were forced to apply them flatly to all intermediate points. This $133\frac{1}{3}$ is simply the best solution the royal commission has come to to get around a very difficult situation, and the commission itself says that they fear the effect of saying that the rates should be applied to the intermediate points and there is no doubt in my mind that was in the minds of the commissioners when they suggested a premium of $33\frac{1}{3}$ per cent.

By Mr. Laing:

Q. Mr. Knowles, is there anything wrong with the suggestion that this handful of rates covers the vast proportion of the movement?—A. I would say so; I think that the iron and steel is the principal rate and perhaps the canned goods is next.

Q. You may have only a few rates but you have all the vast bulk of the movement represented by that handful of rates?—A. Well, I would say a good deal of it, yes.

Q. We are concerned with the movement—not the number of rates.—A. I think you are right about that, Mr. Laing, and as I have stated I certainly think that if the railways cancelled the iron and steel competitive rates they would soon have to put in another low commodity rate in order for the people in Vancouver to draw raw material from the east the same as they do on a lot of other commodities, and I do not think it would be too high either. Are there any other questions that the committee would like to ask me?

Mr. EVANS: Mr. Chairman, might I ask one or two questions?

The CHAIRMAN: Yes.

By Mr. Evans:

Q. Mr. Knowles, I was not able to get a very clear note of your early statements this morning and I recorded you as saying—and I might be quite wrong about it—that you felt that it would be unlikely that a 60 per cent cut in a normal rate to meet competition would provide a resulting competitive rate that would be compensatory. Did you intend to create that impression?—A. That is a general question, Mr. Evans. You probably have some examples which you want to question me about?

Q. No, I have not, but I just want to know whether you said that.

Mr. LAING: Mr. Chairman, I do not understand the question.

The WITNESS: I will answer it this way—

Mr. LAING: I am afraid I might not understand the answer.

The WITNESS: We may cut individual competitive rates as low as 60 per cent, but with the average that I found after a ten-year study they were about 28

per cent lower at that time than the normal rates, and when you start to cut them down to 60 per cent, as you do in the case of these canned goods rates, I think you are in difficulty.

By Mr. Evans:

Q. I am not quarrelling with you; I just want to know what is the statement, or if you did not say that or did not want to go on record as having said that. I do not want to quarrel with you?—A. Well, frankly I do not know just what you are referring to.

Q. May I put it this way then: I got the impression that it was your view that if a normal rate was cut by as much as 60 per cent to meet competition that it was unlikely that that rate would be compensatory to the railway?—A. It depends on the rate itself.

Q. That is all I want to know.—A. If you cut 60 per cent off a \$5 rate for a short distance you have still got some money left, but if you cut 60 per cent off a \$5 rate to Vancouver I do not think you would have any money left.

Q. May I suggest this to you—I am not quarrelling with you but I want to clear it up because I think the committee is as anxious as I am to get an understanding—the principle of the making of rates by railways is on the basis of charging to the higher grade traffic more relatively than to the lower grade traffic?—A. That is correct.

Q. And so that actually if the competitive traffic is relatively higher graded the amount of cut that can be made and still pay out-of-pocket costs is greater than it would be in the lower graded commodities?—A. That is correct, yes.

Q. So you would agree with me then in this way, that it amounts to generalizing by saying that a cut of as much as 60 per cent could never result in a rate that would pay out-of-pocket costs to the railways?—A. I would say you are perfectly right about that. As I said in my first answer, it depends on the individual rate. What I was talking about was the legislation in England and it is to be assumed from that legislation that if a cut is taken of as much as 40 per cent, that is about the limit you can go without beginning to infringe upon the fact that you have a reasonable rate structure and you should not cut it more than 40 per cent, that is, if you are going to have any money left. On an individual rate you can go any limit. I know examples where you could cut a rate 90 per cent and still have a little money left and there are lots of cases in which you could cut 5 per cent and you would be below your cost.

Q. It would depend on the particular commodity and the movement involved?—A. And the average cost of handling the traffic.

Q. That is all I wanted to know.—A. I am glad I cleared that up for you.

Q. Now, there is one other point. I just want to put to you this: when you expressed the view this morning that the effect to the railways' revenue of applying the 1½ rule to intermediate territory would not be severe, would you go this far with me that it would be undesirable, as far as your experience as a rate man is concerned, to make those resulting lower rates available as a test of reasonableness and other rates to the same territory that were not involved?

Mr. JOHNSTON: Mr. Chairman, on a point of order are we going to have a cross-examination?

The CHAIRMAN: Excuse me, Mr. Johnston, I think that is quite an involved question. I think the witness should answer it and then we will hear your objection.

The WITNESS: I think they are more of a competitive character and I do not think they should be used for comparative purposes.

By Mr. Evans:

Q. In other words, you agree with me that if you found as a result of this legislation that, we will say, the rate on canned goods was reduced to Edmonton because of the application of the $1\frac{1}{2}$ rule that you would not want any analogous commodity to be tested as to the reasonableness of the rate to Edmonton merely because this section had had that result?—A. Well, I do not know if I would go that far with Edmonton, but if that resulted in a blanket rate that came right down to Brandon or even to Winnipeg I do not think that those rates should be used as the criterion for other rates. You have exactly the same thing in the United States—the \$1.64 rate applies right across from Seattle to, I would guess, Chicago.

Q. I think you have cleared that up fairly well.—A. Maybe I should have made that clearer. These transcontinental rates to intermediate points plus the one-third I think stand in a special category like competitive rates.

Q. Then, without committing you to more than a personal opinion, would you think it desirable that this section should do something to protect this situation?—A. That is a legal question I cannot answer, Mr. Evans.

The CHAIRMAN: Now, before the first question you had something to say on a point of order, Mr. Johnston?

Mr. JOHNSTON: Yes, I was just wondering if you are going to allow the practice to go on of all the legal advisers here cross-examining a witness, because it seems to me if one counsel is permitted to do that the others should have the same right. I have been on a lot of committees and I have never heard of this procedure being followed before—not in the other committees I have been on in the sixteen years I have been here.

The CHAIRMAN: I can assure you I will try to hold the necessary level.

Mr. JOHNSTON: You had better start right now.

The CHAIRMAN: I think we have a witness so eminently qualified and with a background of experience that even the lawyers will not be able to upset him at all and it may be helpful to the committee to hear what he has to say.

The WITNESS: Thank you, Mr. Chairman.

By Hon. Mr. Chevrier:

Q. Returning to equalization, is it your opinion or is it not that equalization can be worked out with arbitraries?—A. I do not think so in the territory west of Levis, which is outside of the maritime territory. When you get in the maritime territory that is another story, Mr. Minister. I think you should have a uniform rate scale from Levis right clear through to Prince Rupert—everybody should pay the same rate and no one should be allowed a deviation from that scale without justification. That is the situation I got myself into for forty years, using one argument to justify on one rate one day, and another the exact opposite the next day. That is based on my experience.

By the Chairman:

Q. And I think you have already shown the committee that no one will suffer seriously even though the arbitrary rule is dispensed with?—A. I do not think anyone will suffer as a result of all the recommendations in this book (indicating the report of the royal commission) if they are followed out. It took two years to get them in the book and they are all right if they are followed out.

By Mr. Argue:

Q. We in the west are naturally very interested in the equalization aspect and we are hoping that it will mean a good deal to the people of the prairies,

and I am wondering just how long it may take for this section to become fully operative. Is it such a big job that the matter of equalization will be extended over a long period of years or is it something that can be done in a fairly short time?—A. I think it is going to take quite a time, Mr. Argue. After all, any scale that is designed has got to be tested by the traffic and see how it is going to work out. We have already had that experience with the plan filed with the board on August 15, and I do not altogether agree with that scale. It has been tested out and found too high in some respects and I think you are going to have a dozen scales before we can finally arrive at a scale that is suitable to everybody, but my guess is that inside of one or two years you could have a new class rate scale and then a commodity rate scale, and then you have to proceed from there and try to unify all the miscellaneous rates we have all over the country. That is a big part of the job. I would not be surprised if that would take us three years. I would not be surprised if it took five years to clear up this entire situation. It took the Interstate Commerce Commission twelve years to arrive at a new class rate scale.

The CHAIRMAN: I think Mr. Argue's question was particularly directed to the $1\frac{1}{2}$ rule.

Mr. ARGUE: No, I might ask him about the $1\frac{1}{2}$ rule.

By Mr. Argue:

Q. How long would it take to make that operative? That would not take as long to do that?—A. I think the railways could issue a supplement tomorrow and it would be effective in three days if they wanted to go ahead and do it, but I think they would want to test a little more the revenue effect of it, but I am still convinced that it is not going to hurt them very much.

By Mr. Green:

Q. In the new section 328 there is reference to "special arrangement" tariffs. Are those the same as what we call an agreed charge?—A. No, sir, a special arrangement is something like icing in refrigerator cars, or stopping off for sawing lumber, or storage of apples and cheese and things like that. It is a charge of 2, 3 or 4 cents added to the freight rate for these privileges. What happens to the agreed charges under this legislation?—A. They are not touched by the legislation at all, sir because an exception was made with regard to agreed charges.

Q. To what extent are they in effect on Canadian railway traffic?—A. There has not been a great growth of agreed charges because the procedure of getting an agreed charge into effect is so cumbersome that most shippers shy away from it. They would rather have the railways publish a competitive rate. Of course, the railways do not like that; they like to get traffic on an agreed charge, where the traffic is guaranteed. As I say, the difficulty of the procedure—you have got to put it in the Canada Gazette, you have got to get a signature from the shipper on the document and he is very leery about putting his signature on an agreed charge, but we have had a lot of success with the oil companies. Practically everything on petroleum west of Quebec is on an agreed charge, or on its way to being under an agreed charge, and we have had it on lumber, salt and things of that kind. If the procedure had been simplified by the royal commission it would be easier to establish agreed charges but the commission did not see its way clear to make it easier because they thought the contract rate was a rather dangerous procedure; but I think had it been done we would have a lot more agreed charges.

Q. An agreed charge is a contract between one railway and one shipper?—A. No, it is between all the railways in an area and that shipper.

Q. And the one shipper?—A. Yes, or we have had fifty lumber shippers under one agreed charge; we have twelve oil companies, I think, under an agreed charge, and so forth.

By Mr. Laing:

Q. Mr. Knowles, under what rates are you moving sawlogs from the Kamloops area to the coast at the present time?—A. I do not keep individual rates in my head; otherwise I would be crazy. I will tell you something, Mr. Laing, about rates: there are 8,000 freight stations in Canada. If you publish rates between every station you would have 640 million class rates, and that is why they have to be put into groups so you can reduce the size of the tariffs. When it comes to freight rates I do not keep them in my mind but it would take about half an hour to get it for you.

Q. Is the rate on the movement of pulp logs affected by the very high value of pulp? How would that be handled, Mr. Knowles—is that an unnatural movement?—A. I do not know anything about that individual rate at all, Mr. Laing.

Mr. LAING: It is new and it is large, and that is why I thought you might be able to give me some information about it.

The CHAIRMAN: See him in his office, he has made the offer.

Thank you very much, Mr. Knowles. If you will remain in attendance, there may be some other questions from time to time which we might like to ask you.

The WITNESS: Very well, Mr. Chairman; I will be very glad to do that.

F. C. S. Evans, Esq., Vice President, Canadian Pacific Railway, recalled:

The WITNESS: Mr. Chairman and members of the committee: I find myself in a rather difficult position; I am, as I said this morning, a lone wolf. Now, I do not want you to think that I like being a lone wolf and I do hope that you will think that I haven't got anything but teeth, and that I have really the hope of being constructive. You see, my problem is this: we of the Canadian Pacific are the yardstick company. We have to take the forefront on all these rate cases. We took the forefront also in the Royal Commission. We took that knowing full well that we would come in for odium, all the criticism, all the suggestions of motive—proper and improper—that anyone who has different views may see fit to launch against us; but we sometimes can keep our sense of humour, and I hope I can, and I hope you think I can. But I want to say this: the only thing that we have asked this committee to reject is this question of clause 332 (b). All the other things we are for in principle. Our methods are only to suggest to you alternative means of producing the same results. Now, I think that you must take that from me—I hope you will—as sincere and entirely frank and open.

Now then, regarding this matter as to the question of standard rates and reparations, I do not think I need to pursue that, but you will remember that Mr. Frawley, and now Mr. Knowles, expressed the view that if there is any danger of this, some amendment might be introduced that would do so. Now, I offer three suggestions. First I said let us retain the present sections requiring prior approval of the standard rates. I did not say, as Mr. Frawley suggested, retain the present level of standard rates. I said, merely retain the principle of prior approval of standard rates; and if the committee should come to the conclusion that they disagree, then I offered two other alternatives; first, I suggest an amendment to section 330, subsection 2; and that appears on page 84 of the minutes. And then, I offered as an alternative an amendment to section 343. Now, taking them in order of preference, I would prefer to retain the present sections of the Railway Act relating to the standard tariff and with prior approval of them; and, if I can't get that then I would prefer of the two other alternatives an amendment to section 330, subsection 2; and then, next in line of preferences is, perhaps an amendment—which also appears on the same page of the minutes—to section 343. Now then, I have not run counter to the principle of the bill in the slightest degree.

Hon. Mr. CHEVRIER: May I interrupt you there? I may tell you immediately, if it is going to be of any help to you, that we cannot see any objection to that amendment to section 332 and I think we would be prepared to accept it.

The WITNESS: Thank you, sir. Well then, when I come to this competitive rates section I am also under some difficulty because I do not think there is any fundamental difference between me and the other parties. You see, having started to say that everything the Canadian Pacific says is suspect, you immediately think that perhaps because I suggested the amendment that I do not believe the board should police competitive rates. Mr. Frawley even went so far as to say so in his presentation to you yesterday. I am going to leave it to you to look at the amendment to see that the only issue between me and Mr. Frawley is this, as regards section 331, that he wants to have it spelled out in the statute whereas we want to give the board general powers.

And now, on that point, I say that I prefer to see the board given general powers because, as you will remember, in opening I said the chairman of the Royal Commission has said that as a general rule a generality is to be preferred to particularity in these matters.

Now then, I do want to recall this to you, particularly in view of Mr. Frawley's remarks, and those were to some extent echoed by Mr. Shepard, that when they suggested that the railways were so lacking in appreciation of their duties to their shareholders and to the public as to make rates that are no longer justified by competition, they overlook the point that the Royal Commission had found to the contrary; and I am going to recall this to your minds; this paragraph appears at page 85 of the report of the Royal Commission, and it appears immediately following a review of the complaints on competitive rates; and this is what they said:

"Similar complaints with respect to competitive rates were addressed to the board by the Western and maritime provinces in the hearings in the 21 per cent increase case, even before the rates were released from Wartime Prices and Trade Board control in September 1947, but the complaints have lost much of their substance today. Since release from price control and also during the course of this inquiry the railways appear to have done a great deal of housecleaning of their competitive rates."

Now, I don't want to read all that the commission said on that point, but I did want to show you what we have done; and, to show you this, I asked our traffic people to prepare a statement—I do not want to clutter the record unless you want it, in which case I am prepared to file it, if you do want it—showing what has happened to the competitive rates, representative competitive rates since 1938 and since 1948, in April, when the 21 per cent finding was handed down.

Now, this list consists of approximately 4 pages and involves rates on such commodities as: apples, automobiles, automobile engines and parts, blankets, canned goods, cement, fertilizer, glass ware, linoleum, lumber, evaporated milk, paper boxes and other paper products, rubber tires, salt, sand, soap, and many other commodities.

The increases in these rates since the judgment in the 21 per cent case which was the first opportunity the railways had to increase them, range from very small percentages of increase in some cases to more than double the rates in others. It is true that there are a number which have not increased as much as other rates. But I suggest to you that many have received even greater increases than have rates generally. To give you an example: since April 8, 1948, the rate on automobile parts from Windsor to Chatham, the competitive rate has been increased by 80 per cent; on automobile engines, by 66-7

per cent; other automobile parts by 60·7 per cent; canned goods from Bowmanville to Ottawa, by 60 per cent; canned goods from Belleville to Three Rivers, 91·4 per cent.

Besides that, the rates on cement between various destinations in eastern Canada have been increased from 45·5 per cent to 93·8 per cent. Competitive rates on lumber between Barrett, Quebec, and Montreal have been increased by 83·3 per cent; on lumber from Cache Bay to Coppercliff, Ontario by 75 per cent; the competitive rate on rubber tires has been increased between Toronto and Montreal by 38·8 per cent; and between Windsor and Hamilton by 63·6 per cent.

The competitive rates on sugar between Montreal and Hamilton have been increased by 131 per cent; and between St. John, New Brunswick, and Toronto by 82·8 per cent. Other increases in sugar competitive rates vary from 61 per cent to 131·3 per cent.

In passing, I would have you note that the transcontinental competitive rates have also been largely increased. The list contains many examples, with the majority of increases being around 60 per cent, and going as high as 96 per cent.

Now, when it is borne in mind that price control was in effect between 1941 and 1947, you can quite readily see that a very great deal has been done to bring these rates more into line with the real competition.

The issue is not as Mr. Frawley has stated it, that the Canadian Pacific wants to have its management free from almost all regulatory control. The issue is simply this: if you are going to have management of a railway company with experience and responsibility to the shareholders and to the public, to the shareholders for the maintenance of their property and the protection of the shareholders' rights, and to the public for the maintenance of the service, that responsibility must go along with some element of judgment. And all I have ever said is: check that judgment to see that it is exercised reasonably and in good faith by means of the regulations, but do not establish a board to exercise its judgment in place of the railway management's judgment, because the board has not the same responsibility.

Now then, I merely pause to point out what I think was a rather unfair reference by Mr. Shepard. I do not think he intended it to be unfair, but he made quite a little play on a statement I made here, that some traffic officers have good judgment while others have poor judgment. Well, so they have. But what he did not point out was what I followed that statement with, when I said, as I say here today, the board is much less able to pass judgment on these things in the very nature of things. They are there to hear competing people discussing things, not to run the railways in place of management; because, if you want to have that happen then why have railway management at all? Why not just have the board?

By the Chairman:

Q. Before you leave that subject, Mr. Evans, I am just wondering if these competitive rates would get very badly out of line before they were corrected?—A. May I put this to you, sir; suppose an increase in rates were made after 1938 which was the time at which the depression can be said to have come to an end. At the outset of the war there were a number of changes in these competitive rates. Price control came in in 1941; but despite price control there were very substantial increases in costs of all kinds, not so much as happened after price control was removed, but there were very substantial amounts of increase in cost. That was the first thing.

The second thing that happened was this: that a very large number of our truck competitors went out of business during those years. A great many of them almost went bankrupt. We would have been perfectly justified in increas-

ing a great number of these truck competitive rates and had we not been bound by price control I have not the slightest doubt that we would have done so.

I think we might perhaps come back to section 331. I would like to point out to you something which appears to have been overlooked and it may be my own fault for not addressing it to you before. But when I was here the other day, it was suggested perhaps that I ought not to look at the royal commission report. And I think in the flurry which led me to depart from my notes, I overlooked pointing out to you that the royal commission never recommended a statute containing these items of information about competitive rates. They only recommended that the board be empowered to require them; and that is the purpose of my amendment.

Now, in order to show you that I am going to read to you what the royal commission had to say on this item. I read from page 86, at the bottom of the page, as follows:

"The board already has some regulations with respect to the competitive rates and it is suggested, in view of the complaints which have come before the commission that these regulations—

And I would ask you to note these words:

"... that these regulations should provide that whenever a railway files a competitive tariff or an amendment thereto, it shall simultaneously supply the board with information similar to that now filed with applications for the approval of agreed charges. This information includes—"

And then follows the list of items.

What I am saying to you is this: it was obviously the view of the royal commission that the board would do that by regulation; and when you come to find out what amendment they recommended, you will find it on the next page, where it says merely that the Railway Act should be amended to give the board power to act as suggested herein.

Now, the board was to act by making regulations, and all that was required in the legislation, in my respectful submission, was that the board should clearly have the powers to act in accordance with the prior recommendation. That is why I offered to you the amendment in general terms that the board might require us to supply any information it thought was necessary.

Then, by the ordinary terms of the Railway Act the board has power to pass regulations or to deal with the things it is required to do or empowered to do under the Railway Act; and it can, as soon as it has the power, pass the necessary regulations. That is all I have to say about competitive rates.

Then, I think from hearing my friend from the provinces, that I again have been misunderstood on this question of equalization and I think maybe it is my own fault. Perhaps I did not make myself clear but I want to try and do it.

The one thing that appears to be permeated the thinking of those who have immediately preceded me is that by suggesting one or more scales I was trying to keep in the bag one or more equal scales. Mr. MacPherson pointed that out for me the other day and he talked about the rates on canned goods and the differences between east and west, and he said: Now I know why my friend Mr. Evans wants more than one scale.

Actually if it would make this thing clearer I would suggest to the committee that at the point where we make our recommended amendment—if you will be good enough to turn to page 85 of the minutes where I propose an amendment to 332A—under subsection (2) I say this:

Without restricting the generality of subsection (1) the board may require any railway company (a) To establish a uniform scale or scales of class rate . . . and, similarly, the same way in (b).

If this will help my point, to make my intention understood, I would suggest that you put in the words "to establish a uniform scale or equal uniform scales of class rates" and the same change in (b) with regard to the commodity mileage scale.

I want to make my point even more clear, that is to say: if I want more than one scale and they are going to be equal—why do I want more than one scale?

I want to draw a few lines on this piece of paper and I will show you. I have shown there two vertical lines on a sheet of paper. The first vertical line has Fort William on it and the second vertical line has Montreal on it. Now, the equalized class rate scale would move traffic not only within the territory west—the territory between Fort William and Montreal—but also the traffic within the maritimes. My purpose in having more than one scale is that the board may approve equal scales for use within the various three regions.

The rub comes, so far as these arbitraries are concerned, when we find traffic moving between the regions. So that if you apply the uniform class rate scale and retain your arbitraries you see you have to make a selection as to what region you are going to apply the scale in because the rest of Canada is covered by through movement. So, if you had a movement for instance between Edmonton and Halifax that would carry the new class rate scale, we will say, and the two arbitraries—the basing arbitrary to Fort William and the maritime arbitrary—but that mileage scale would not operate except in western territory.

If you want to reverse it and put in the arbitrary west of Fort William and you originate traffic in the maritimes, you have exactly the same result. The scale within the region is the important thing to equalize. Movements between regions are movements that require the application of arbitraries. My opinion the other day was made in the honest belief that if you were to have a uniform scale you might not be able to have these arbitraries.

By the Chairman:

Q. Is your scale at the end of the journey, Mr. Evans?—A. In this case the established practice is to use the western scale but apply the arbitraries to that.

Q. But the scale is applied at the end of the journey of the goods?—A. It depends. If it is eastbound it is applied at the beginning, but if it is westbound it is applied at the end. All I am saying is do not take my word for it; leave the board free to do that if it wants to—and that is all.

That is my only point on equalization—or perhaps I should not say my only point because I have one other minor point. You will recall that I made one other suggestion to the committee in connection with the equalization section and in connection with blocks or groups. These blocks or groups were held out by their proponents, counsel for the provinces, as a means by which the board could accomplish what I am talking about. Well, that is not quite right in my respectful submission because the section of the bill says—looking at 329 (a): Class rate tariffs:

(a) Shall file and publish one or more class rate tariffs as the board may determine, specifying the normal class rates on a mileage basis for all distances covered by the company's railway, and such distances . . . shall . . . be expressed in blocks or groups and the blocks or groups . . . shall . . . include relatively greater distances for the longer than the shorter hauls.

Now, let me show you what that means. It means that as the distance increases the groupings increase. Let us suppose in the scheme of things the board should want to maintain the maritime arbitrary, and the basing arbitrary

on movements to western Canada. The first thing is, if you start on the uniform scale in the maritimes, you can only apply the blocking or grouping related to the distance. So what you do is you immediately lose your arbitrary because you cannot do so—you have to do it as the distance increases. What I am saying to you is: Do not make it mandatory on the board that these must increase with distance. Leave it “may” as it is in the Act. It is not “may” in the bill. In fact it is “may” that was suggested by the provinces before the royal commission. It never was “shall” until the royal commission used the word. They did not use the word “shall” but they used words which I think impressed the draftsmen of the bill with the necessity of using the word “shall”.

Now, I turn—and I am rapidly coming to a conclusion—to this much vexing question of transcontinental rates.

One of the favourite habits of counsel—and I suppose I cannot blame my friend Mr. Frawley for it because he is quite a counsel—is to suggest that other counsel are operating on a basis of “in terrorem”. It is rather interesting to me because I tried my best to avoid any suggestion of that kind. I did not know quite how I could tell you this without going as far as I did. What I wanted to tell you was when we are asked to make a competitive rate, even under the old Act but particularly now when the board is going to supervise the making of rates, one of the things they want to know is the effect on net revenue. I argue it should be “effect” but the bill says “extent”. It makes no difference for this point.

They want to know where net revenue is going to be affected. If we are to be allowed to keep competitive rates one of the things they have taken into account is: what are the collateral effects or collateral losses if we put that rate into effect.

Now, that means that the board will have to look at these competitive rates transcontinentally, and they would have to find out whether we did meet our out-of-pocket costs on those rates, and they would also want to know what traffic we were going to lose and what revenue we were going to lose by the collateral application of the $1\frac{1}{3}$ rule. I say to you that this is in terrorem. This is trying to make clear to you the difficulty that faces us if we are to be told on the one hand by another section we must be careful of our net revenue in making competitive rates, if on the other hand we are compelled by another section to incur collateral losses. Now, when I said to you we could not afford to incur those collateral losses without increasing the transcontinental rates, I was simply pointing out the inevitable results of any good management looking at a rate and asking, “am I making money or am I not?” Now, then, I say, too, as was pointed up, I think, by what Mr. Frawley said in connection with his interest in this section, that it is also in conflict with the equality intent of 332A to have now a new reduction in rates below the normal scales to all points in western Canada on certain commodities because they happen to be commodities with regard to which the railways decide that they want to meet competition. Mr. Knowles said to you very fairly, I think—Mr. Knowles and I are old friends, I may say—he said very fairly “I would not want to have these reduced rates reduced by the application of the $1\frac{1}{3}$ rule made the test of reasonableness of other rates”. I am afraid that the section as it stands would just do exactly that. As soon as—I pointed this out in my opening—that was applied, somebody would come along and say “but on canned goods your rate has been reduced under this section, why cannot I on some other commodity, merely because it is not meeting competition at the coast, why cannot I have my test of reasonableness the rate that my neighbour pays on canned goods”?

Those are really serious problems and with the greatest respect to my friends of the Canadian National, I say to them it is not so much what may come from individual items, but what may come as a result from other people who, seeing the good fortune, as it were, of their neighbour, want the same thing

applied to them, and they point to the principle of the national freight rate policy in this bill and they say the national freight rate policy is "we want equality of freight rates in Canada", and if you answer "no, not for competitive rates", they say "Oh, no, our rates in western Canada are not competitive rates, they are only incidentally lower because somewhere else there was a competitive rate". Now, I am saying to you, sir, that I want my position made clear. It is not obstructive, it is not obstructive to a single degree to the policy of equalization, to the policy of adequate and proper policing of competitive rates, it is not obstructive in any single degree regionally or otherwise to the interests of any industry in this country. It cannot be, because if it was we could not live. I say to you, I come here asking this committee to take me at my face value just for once—because it is not often that my friends on the other side permit it—and give me the credit of just thinking I might possibly be right; but do not accept it 100 per cent; leave it to the board to find out whether I am right.

By the Chairman:

Q. Before you leave that point, Mr. Evans, you will be familiar with the cases across the line. Has that point been raised successfully by any shipper across the line at the time of the 25 per cent mark-up on their transcontinental rates to intermediate points?—A. I would think not.

Q. And at the present time in regard to their parity with transcontinental rates?—A. I would think not, no. I think that the rule is the same as here.

Q. Well, then, what makes you think you may run into that trouble?—A. The declaration of national policy that we have here that the rates shall be equal, and I am a little afraid it is so sweeping it may have that result, but if you apply the rules we always applied you need not go into the whole territories of western Canada, you would stick to the line of transit.

Q. Have they any similar declaration in the United States with regard to equalization?—A. I do not know, but Mr. Knowles could advise you on that.

Q. I am tempted to throw in this aside, that after the way you were treated in this committee, Mr. Evans, you will lose an awful lot of the persecution complex you appear to have.—A. I have not got a persecution complex; if I had I would not have been able to stand it; I would be out somewhere on Queen Street or by the River St. Lawrence in Montreal. I do want to impress upon you, Mr. Chairman, that it is very easy to make the one lone wolf the butt of all the criticism, and while I do not object to the criticism I would not want you to think I am quite as bad as I am painted.

Q. You seem to thrive on it, all right.

Mr. Low: We think you are a pretty good fellow, Mr. Evans.

Mr. Evans: Thank you, Mr. Low.

I just want to say one more word and then I am through. Well, I think I might close on that.

By Mr. Laing:

Q. Would you permit me to revert to competitive rates, Mr. Evans? How is a competitive rate established right now?—A. A competitive rate, Mr. Laing, is established by the freight traffic officers having established in their own minds the extent of the competition and where the rate would have to go in order to get the traffic. That is usually done in consultation with the shipper.

Q. The shipper phones you up and says: I can ship by truck at a certain rate?—A. It is not quite as simple as that.

Q. It has been done that way, though?—A. It has been done, but if it were done I suggest the traffic man already knew about the competition in the area.

Q. How much did he know?—A. That is a difficult question to answer.

Q. There is a suggestion in this bill that the railways have been establishing competitive rates that were not actually necessary, and hence were needlessly losing revenue. I am trying to establish the difficulty of obtaining proof of a competitive rate. I do not think you could ever get it, because if a trucker is a common carrier with published rates he is not going to put anything in writing to confirm a special rate.—A. That is our great difficulty and I should have answered your question before. The contract trucker in a great many provinces—there are some where he does—he does not publish his rate at all.

Q. Not only the contract shipper, but in a province where the licence of a common carrier, a trucker, is dependent on his publication of rates; he might want that business bad enough to take it lower than his published rates, and he is not going to put that in writing, and never will, and you cannot obtain it under this bill.—A. I am convinced that goes on all the time and we should not overlook the fact that the private carrier is also in that category. He has no rates published, his costs are his only test. We have to have people, local people and headquarters people, fully informed on the competition they have to meet, and then they have to exercise judgment. I am not suggesting their judgment must be taken cold, and without scrutiny, I am saying their judgment should be scrutinized by the board to see that they have exercised good faith and reasonable judgment, but I do not think the board, with the information we are asked to get here, may ever be in any better position than the fellow who sits in the traffic manager's office and who has had 40 years of dealing with this particular problem.

Q. Are we not trying to spell out requirements in the bill that can in many instances never be realized?—A. That is my respectful submission.

By Mr. Gillis:

Q. Mr. Evans, before you finish I would like to ask you this question: You made quite a case during your earlier remarks in that the railways rates were badly out of line between 1941 and 1947 because of prices. I would like to ask you how would the earnings of your company from 1941 to 1947 compare with those of 1947 to 1950?—A. The net earnings were much higher during the war.

Q. In regard to revenue for the company how was that affected by price controls?—A. I am not quarrelling about price controls. What I am saying is that I am charged with having rates too low to meet the competition and the cost of operation, and traffic went up enormously during the war. The reason for having them that low during the war was price controls.

Q. Well if your revenue was up was there any reason for increasing your rates?—A. Competitive rates, yes, because we have to maintain the competitive rates. It is necessary for us to maintain the competitive rates and if we do not we are discriminating against the fellow who does not get the benefit of the competitive rates and the board would hold that just as quick as that. We cannot put in any rate and call it competitive. We have got to be able to defend ourselves if somebody comes along and says, "Why have not I got that same rate?" The board will say to him, "The competitive rate is to meet competition; it is not to be used as the standard of reasonableness on other rates," but it will also say to him this, "If you can show you have the same condition we will compel the railway to give that rate to you or else call them all off".

Q. Then, do you say I am right in assuming that the jacking up of your rates which I understand you did from 1947 to 1950 was made necessary by the general rush to increase prices after the price controls came off?—A. I would say this, that first we had a realization that our competitive rates needed overhauling because they should have been put up during the war and would have been put up. We could not by the time that it became necessary to put up the competitive rates put them up, and it was possible to do so in 1947 where we

were then in the cycle that we are now in of increasing prices. Price controls came off, wages began to go up and we had an application pending to increase our rates and we applied the same increase at that time to our competitive rates immediately and had a review to see what individual rates should go up and what should be reduced.

Q. Well, was it the climb in prices that caused you to do that?—A. I do not complain about the price controls but I am charged with not doing something and I am pointing out that since we were free to do it we did do it.

By Mr. Argue:

Q. Mr. Chairman, I had asked Mr. Knowles earlier for his opinion of how long it might take to bring in the equalization in this bill and I wonder if Mr. Evans would agree with Mr. Knowles that it could perhaps be done in about five years?—A. I would defer very largely to Mr. Knowles on that. I am only the mouthpiece of my company—that is all. I defer always to the traffic advisers that I have, but knowing some of the difficulties we have had, knowing the enormity of the job I do not see how it could be done in less time.

Q. Do you think it might be done in five years?—A. It may be but you know it is not a case of the board merely sitting; it has got to hear people from all over the country and it has got to look into the representations that are made by everybody. It has got an awful job because if you do things too drastically and too quickly you may upset the whole economy.

I am not saying it is right to do this, but you can establish, we will say, industry in a particular locality based upon a condition in regard to freight rates and other causes which might have made the people of that locality make money. Then, if you are very drastic and very quick in your judgment you may throw that industry into bankruptcy. If you give it some time it may be able to adjust itself and may be able to decentralize or it may be able to do a number of other things, but you cannot do these things so sweepingly simply by striking a pen through an order and saying, "This is it." That is really my point.

Q. But so far as the problem of equalization of the railways is concerned, of bringing the rate into equity, could the railways not do that within five years?—A. Actually we could do it tomorrow as long as the board would let us put it into effect, but we would make such a mess that the whole country would be in chaos.

Q. Then, am I correct in saying that the length of time to bring in the equalization will depend upon the board, not on any difficulty the railways themselves would have in bringing these rates into effect?—A. We can draw up rate scales. We have gone a long way in our studies but we have to find out whether they will do. We have to study to see how much revenue they will produce and once we have got those we can write the tariffs and print them and put them into effect, but I think it would be most unwise of us to do so.

The CHAIRMAN: Are there any further questions of Mr. Evans? If not, I think the time has now arrived that I should express the thanks of this committee to Mr. Evans and Mr. O'Donnell for their great help to us in this task.

Mr. EVANS: Thank you.

The CHAIRMAN: Now, if the committee will turn to bill 12, section 1—

Mr. ARGUE: Mr. Chairman, at the first meeting we had I advanced the suggestion that we should call before this committee members or representatives of the Board of Transport Commissioners and I would like to make that suggestion again. As you have noticed, I have been inquiring of various witnesses how long it may take to bring equalization about, and I think the committee should have a representative from the Board of Transport Commissioners to

inquire as to how long it may take to bring into effect the provisions of this bill and I believe the committee might agree to ask the Board of Transport Commissioners.

The CHAIRMAN: I have thought over your request pretty carefully. I look on the Board of Transport Commissioners as a judicial body, and we would not dream of calling before this committee to testify or give evidence a judge who is going to try a case, because cases are tried on evidence adduced and I am afraid, Mr. Argue, I would have to rule against you on that. I am, of course, in the hands of the committee.

Mr. ARGUE: Of course, the committee has the power to do that, if it is desired, by its powers of reference.

The CHAIRMAN: Yes, but I do not think it should be done. I am, of course, in the hands of the committee. That is my opinion as chairman; I do not think it should be done.

Mr. ARGUE: Well, I do not place—

Mr. GREEN: What about experts from the board?

The CHAIRMAN: Well, have we not heard the best experts available in Canada already?

Mr. GREEN: I do think, Mr. Chairman, that we would be wise to defer considering the actual sections of the bill until the first of the week.

The CHAIRMAN: I am content to do that. I do not want to unduly rush anyone. The committee has been very cooperative. I appreciate the spirit that has been shown and if any members of the committee feel I am rushing them by asking them to start in on the sections I am willing to wait until Monday and we will meet at 11 o'clock Monday morning.

Mr. GREEN: I think we would be wiser to hear the balance of the evidence which is presumably available Monday morning.

The CHAIRMAN: Yes.

Mr. GREEN: And also to have all of these briefs which are to be filed. Now, there is not a bit of use asking for any organization to put in a brief if before that brief got here we decided on bill 12.

The CHAIRMAN: I anticipated and I believe correctly anticipated that the brief and the evidence which we were to hear Monday will be directed at the 1½ rule and I was not intending to call that section, of course, until we had completed our evidence.

Mr. GREEN: For example, there is a brief coming in from the Toronto Board of Trade. Now, I am very anxious to see what it says, and I think that if we are to do an efficient job in this committee we should certainly have that evidence in before we start to consider the sections, and for myself I would like to have a little time to go over the evidence which has already been given here.

The CHAIRMAN: Shall we adjourn until 11 o'clock Monday morning?

Mr. GREEN: Might I make one further suggestion? The minister has suggested that he plans to make some amendments. It would be helpful if he could tell us his views on those amendments so that we could study them over the week-end. If he has any objection to that I will not press the matter.

Hon. Mr. CHEVRIER: I would rather submit the amendments as we come to the section. Some of them I want to look over. They were just given to me this afternoon, and I would also like to have an opportunity of discussing them with some of the persons who will be affected.

The CHAIRMAN: Gentlemen, before we adjourn there is one matter I know you would want me to bring to your attention. Our hard-working committee clerk, Mr. Chasse, has been working until after 12 o'clock every night clearing the revision of the evidence taken in the day and I fear that in part certainly as a result of his exacting duties he suffered a heart attack this morning and he is now in hospital, and I would like authority to convey on behalf of the committee our regrets at his illness and our hope for a speedy recovery.

Mr. BROOKS: We might send him some flowers?

The CHAIRMAN: I will see that is done on behalf of the committee.

HOUSE OF COMMONS

Fifth Session—Twenty-first Parliament

1951

(Second Session)

SPECIAL COMMITTEE

ON

RAILWAY LEGISLATION

CHAIRMAN—Mr. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

IN RELATION TO

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933;

Bill No. 7, An Act to amend The Maritime Freight Rates Act;

Bill No. 12, An Act to amend The Railway Act.

MONDAY, NOVEMBER 19, 1951

WITNESSES:

Mr. W. P. Fillmore, K.C., Counsel, with Mr. B. M. Stechishin, appearing on behalf of the City of Winnipeg and the Winnipeg Chamber of Commerce.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

MINUTES OF PROCEEDINGS

MONDAY, November 19, 1951.

The Special Committee on Railway Legislation met at 11.00 o'clock a.m. this day. The Chairman Mr. Hughes Cleaver presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Chevrier, Churchill, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Macdonald (*Edmonton East*), MacNaught, McCulloch, Mutch, Nowlan, Riley, Weaver, Whiteside.

In attendance: Mr. Hugh E. O'Donnell, K.C., of Montreal, appearing on behalf of the Canadian National Railways with Mr. H. C. Friel, K.C., General Solicitor for the C.N.R. also of Montreal; Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company with Mr. C. E. Jefferson, Vice-president of Traffic, and Mr. K. D. M. Spence, Commission Counsel, also of the Canadian Pacific Railway Company, all of Montreal; Mr. L. J. Knowles, of Montreal, Special Adviser of Traffic to the Royal Commission on Transportation; Mr. J. A. Argo, of Montreal, Assistant Vice-president, Freight Traffic, Canadian National Railways; Mr. W. J. Matthews, K.C., Department of Transport; Mr. C. W. Brazier and Mr. M. Glover, representing the province of British Columbia; Mr. W. P. Fillmore, K.C., Counsel, with Mr. B. M. Stechishin, appearing on behalf of the City of Winnipeg and the Winnipeg Chamber of Commerce; and Mr. George Francis, Chairman of the Industrial Development Board of the City of Winnipeg.

The Committee resumed the hearing of representations concerning Bills Nos. 12, 6 and 7.

Mr. Fillmore, assisted by Mr. Stechishin, was called. He read a brief, was questioned thereon and retired.

The Committee then proceeded to a clause by clause consideration of Bill 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933.

Clause 1 and the Title were considered and adopted.

Ordered, To report the Bill without amendment.

The Committee then proceeded to a clause by clause consideration of Bill 7, An Act to amend the Maritime Freight Rates Act.

Clauses 1 and 2 and the Title were considered and adopted.

Ordered, To report the Bill without amendment.

Thereupon the Committee proceeded to a clause by clause consideration of Bill 12, An Act to amend the Railway Act.

Clause 1 was adopted.

On Clause 2:

Mr. Argue moved: That the new subsection two of section ten of the Act be amended by deleting lines 17, 18 and 19 thereof.

After discussion, and the question having been put, the said motion was resolved in the negative.

Clause 2 was adopted.

On Clause 3:

Mr. Lafontaine moved: That the new subsection one of section twenty-six of the Act be amended as follows:

26 (1) The Chief Commissioner shall be paid an annual salary equal to the salary of the President of the Exchequer Court; the Assistant Chief Commissioner shall be paid an annual salary of fourteen thousand dollars, the Deputy Chief Commissioner thirteen thousand dollars and each of the other Commissioners shall be paid an annual salary of twelve thousand dollars.

After discussion, the Chairman informed the Committee that the amendment required the recommendation of the Crown and as the sense of the Committee was in the affirmative Clause 3 should stand.

Clause 3, stand.

Clauses 4, 5 and 6, respectively, were severally considered and adopted.

Clause 7 was called, and, a discussion arising thereon, it being 1.00 o'clock p.m. the Committee adjourned to the call of the Chair.

R. J. GRATRIX,

Acting Clerk of the Committee.

EVIDENCE

NOVEMBER 19, 1951

11.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. We have with us this morning, according to arrangements agreed upon, Mr. W. P. Fillmore, K.C. representing the city of Winnipeg, and Mr. B. W. Stechishin, Transportation Bureau, Winnipeg Chamber of Commerce. I now call upon Mr. Fillmore.

Mr. W. P. Fillmore, K.C., called:

The WITNESS: Mr. Chairman and gentlemen, we appreciate the opportunity of being allowed to appear before you. I shall now read our brief and I shall be pleased to answer—or to try to answer—any questions asked. But as to any questions relating to rates, I may call upon Mr. Stechishin to answer them.

While we appreciate the effort parliament is making to implement the recommendations of the royal commission, a careful study of the effect that bill 12 may have on the main industrial areas of Manitoba gives us great concern. Even under the present freight rate structure Manitoba has not developed, either in industry or population, to the same degree as the central or other western provinces.

We are referring there to relative progress. Distributors and manufacturers in Manitoba have not yet recovered from the disastrous effects occasioned by the opening of the Panama canal nearly forty years ago.

It is, of course, desirable that this freight rate structure should be simplified and made uniform in so far as this can be done without disturbing trade balances between different districts, and without throwing an increased burden of freight rates on one district at the expense of another. We have not asked for, nor have we received, any parliamentary assistance. Under the circumstances, we request this committee to consider very carefully whether it is in the national interest to give, by legislation, further assistance at our expense to areas which even now are making comparatively greater progress in industrial development.

We assume that it is not the intention of parliament, through the provisions of the proposed bill 12, to disturb the competitive relationships which now exist between different parts of Canada or between different provinces or areas. It was, in fact, stated by the Honourable Minister of Transport, on the floor of the House, on the 26th of October, that "it need not be anticipated that the proposed amendments will result in a body of freight rates which will disrupt established industries and freight patterns". This is consistent with one of the conclusions and recommendations of the royal commission in the chapter entitled "Equalization", found at the bottom of page 125, and which reads as follows:

"The objective of equalization is something which can only be attained after considerable study by the Board and by the railways. Undoubtedly many serious problems are involved, for example the effect that the proposals may have on railway revenues, on established industries and on trade and market patterns. All of these things are matters of the utmost importance. Having regard to the large number of rate changes which will be involved, the problem is one peculiarly for the board to

resolve finally after the general freight rate investigation and after all parties who may be affected by the proposals have had an opportunity of being heard."

I shall develop the argument later on that we did not want that opportunity to be shut off or precluded in advance.

Freight rates occupy a peculiar position in the decisions of a business community. In one sense they are a cost of doing business just as wage payments, rents, etc. are costs, but they differ from these other costs in that they are subject to change through the railway companies fixing new tariffs and by decisions of the Board of Transport Commissioners, and they are not the result of the inter-action of market forces. Market conditions such as a rise and fall in prices apply equally all across the country, but new tariffs have a local and arbitrary, and sometimes not anticipated effect. May we respectfully suggest that this bill be so worded as to enable the Board of Transport Commissioners to give effect to the recommendation of the royal commission which we have quoted. We want some assurance that established and prospective industries and investments will not be damaged or discouraged.

The great bulk of Canada's industry is concentrated in the Sudbury-Windsor-Montreal triangle. We venture to say that no industry west of that triangle, with the exception of British Columbia, can compete eastward to any great degree. Whether we like it or not, that is a fundamental fact of Canadian economy. Because of this, the relationship between the rates to Winnipeg and to other western Canadian centres is of utmost concern to this city's welfare. Winnipeg has a natural geographic advantage over other western cities, and this should be respected. We must even now absorb some freight on nearly all shipments we make to meet eastern competition because the through rate is lower than the sum of the rate to Winnipeg and the rate beyond.

We realize that the so-called "study" prepared by the railways at the request of the Board of Transport Commissioners is not final nor official, and may be only a mere suggestion. However, this study represents a great and serious effort by practical rate experts. If this study is any indication of what may happen through the enforcement of rigid uniformity, we can see that rates to Manitoba from the east may be raised and that rates from the east to points west of Manitoba may be lowered. Such an event would prejudice our competitive position as against the central provinces and would tend to further concentration of industry therein.

Our view is that proposed section 332A in its present form is not adequate to ensure that established industries and freight patterns will not be disrupted. Section 332A, sub-section (1) reads:

It is hereby declared to be the national freight rates policy that, subject to the exceptions specified in subsection four, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description and carried on or upon the like kind of cars or conveyance, passing over all lines or routes of the company in Canada, charge tolls to all persons at the same rate, whether by weight, mileage or otherwise.

Subsection (4) reads:

Subsections one, two and three are subject to the proviso to subsection five of section three hundred and twenty-five of this Act, and to the Maritime Freight Rates Act, and do not apply in respect of

(a) joint international rates between points in Canada and points in the United States of America;

- (b) rates on export and import traffic through Canadian ports, where in practice such rates bear a fixed and long-standing relationship with rates on similar traffic through ports in the United States of America;
- (c) competitive rates;
- (d) agreed charges authorized by the board under Part V of The Transport Act, 1938;
- (e) rates over the White Pass and Yukon route; and
- (f) any other case where the board considers that an exception should be made from the operation of this section.

Sub-section (f) must refer to particular cases and rates, and it cannot be construed to apply to all rates or to detract from the generality of the declared freight rate policy. For example, sub-section (f) might apply to a rate on a commodity which is necessary to enable that commodity to be moved by rail. It does not refer to competitive rates because they are already excepted.

Section 332A, after declaring the freight rate policy, states that the board "may" with a view of implementing and so forth. It is our view that the use of the word "may" here is directory and mandatory and not merely permissive. If "may" is only permissive then the Board would be in a position to disregard the declared policy in whole or in part.

I might say here that I have notice that Mr. Evans who is an experienced railway lawyer and an expert in that line, and also my friend Mr. Smith from the maritimes who, like myself, knows a little of all law and not much of any law, have both expressed the same view that in this case "may" may be mandatory and not merely permissive.

As section 332A does not direct the board to preserve the competitive pattern there is great danger that the courts would hold that it is the duty of the board to carry out the national freight rates policy, without regard to the effect it would have on competing industries which are located in different areas or districts. In fact, as the proposed Act now stands, the board would have no right to take such factors into consideration and if it did an aggrieved party could appeal to the Supreme Court of Canada and ask for a direction that the board should perform its duty in accordance with the terms of the Act.

I then refer to the late case in the Supreme Court Reports of the Canadian Pacific Railway against the Province of Alberta and others. Now, in that case there was an application for an increase in freight rates. The Board of Transport Commissioners granted an interim increase but they postponed the consideration of the main application until there was a report from the royal commission, until some other studies had been effected and until some other matters were clarified.

Now, the Supreme Court of Canada said to the Board of Transport Commissioners:

"You are a public body. You have got statutory duties and you have got statutory powers. You have no right to postpone or put off the consideration of those matters and you have got to do what the statute directs you to do. It is true you have got a right to adjourn but you cannot exercise any of your powers through taking into consideration matters which are extraneous and not relevant to your statutory duties and power."

And the Supreme Court of Canada in the report at page 32—there was a unanimous judgment of the court delivered by Mr. Justice Kellock—quoted from certain cases in the House of Lords and others in England:

"—the principle involved as follows:

'... where a power is deposited with a public officer for the purpose of being used for the benefit of persons who are specifically pointed

out, and with regard to whom a definition is supplied by the legislature of the conditions upon which they are entitled to call for its exercise, that power ought to be exercised, and the court will require it to be exercised.'

'In all these instances the courts decided that the power conferred was one which was intended by the legislature to be exercised; and that although the statute in terms had only conferred a power, the circumstances were such as to create a duty. In other words, the conclusion arrived at by the courts in these cases was this—that regard being had to the subject-matter—to the position and character of the person empowered—to the general objects of the statute—and, above all, to the position and rights of the person, or class of persons, for whose benefit the power was conferred, the exercise of any discretion by the person empowered could not have been intended.' '... there may be something in the nature of the thing empowered to be done, something in the object for which it is to be done, something in the conditions under which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so.'"

So that we are making the argument here that when the national freight rate policy is developed—and under subsection 4 the board may require the railways to submit a uniform tariff on a mileage basis—the board must exercise that power, they must require the railways to submit uniform tariffs on the entire system on the directed basis.

Now, the question is, what discretion is left in the Board of Transport Commissioners? There are certain exceptions in subsection 4 and I advance the argument with some confidence that the only exceptions to the developed policy and to the directed basis are the exceptions in subsection 4.

In this connection we also refer to the case of the Great Western Railway Company *v.* Chamber of Shipping of the United Kingdom, 1937 L.R. 2 K.B. Div. p. 30 the head note of which reads as follows:

"When a railway company seeks the consent of the Railway Rates Tribunal under s. 37, sub-s. 1, of the Railways Act, 1921, to the grant of exceptional rates for certain traffic which are more than 40 per cent. below the standard rates chargeable, the tribunal is only concerned (1) whether the effect of the exceptional rates proposed will be to affect prejudicially the revenue of the company, and (2) whether persons using or desiring to use the railway will be prejudiced.

The tribunal is not therefore concerned to inquire whether the exceptional rate will prejudice coastal carriers by placing them at a disadvantage and will therefore be undesirable in the national interest".

I might say to the lawyers who are interested in this subject that there is a very fine article in the May number of the Canadian Bar Review entitled "The Growing Ambit of the Common Law," and they show the extent to which the courts in England are now reviewing the decisions of judicial and semi-judicial bodies, and it shows in recent years they have gone a long way towards giving direction to these bodies and keeping them within their statutory limits. If any semi-judicial body misconstrues the statute, wrongly interprets the statute under which they are given their powers, the court will set them right and tell them for their guidance the limits within which they can operate and what matters they can take into account in considering and arriving at their decisions.

Section 314 is headed "Equality as to Tolls and Facilities", and reads as follows:

1. "All tolls shall always under substantially similar circumstances and conditions in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route, be charged equally to all persons at the same rate, whether by weight, mileage or otherwise.
2. No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway.
3. The tolls for carload quantities or longer distances may be proportionately less than the tolls for less than carload quantities, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons.
4. No toll shall be charged which unjustly discriminates between different localities.
5. The board shall not approve or allow any toll which for the like description of goods, or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line or route is greater for a shorter than for a longer distance within which such shorter distance is included, unless the board is satisfied that, owing to competition, it is expedient to allow such toll.
6. The board may declare that any places are competitive points within the meaning of this Act, 1919, c. 68, s. 314".

It is noted that the words "under substantially similar circumstances and conditions" which appear in section 314 are omitted from sub-section (1) of 332A, which is a further indication that the policy is to be enforced without regard to extraneous matters or to considerations which formerly prevailed.

As I see it, the difficulty here is you have got the old sections, you have got the rate-making sections, rate-controlling sections starting at 314 and so on and including section 325, and then you throw into the middle of that legislation and into the middle of the decisions which have been interpreted that legislation a new section with a new principle and just what the effect of the new section will be on the old sections, how much it will limit the powers, I submit, it is impossible to foresee. I think it is going to be very difficult for the Board of Transport Commissioners to decide amongst themselves just what they can do and what they cannot do or how much regard they should have to the present sections which cover the same subject-matter.

The following is a quotation from page 125 of the report of the royal commission:

The words "under substantially similar circumstances and conditions" contained in section 314 of the Railway Act cannot properly be eliminated because this section is essentially an anti-discrimination section.

Sub-section (1) of section 332A declares a national policy, subject only to the exceptions specified in sub-section (4).

The board must give effect to the declared policy. By necessary implication, no exceptions are permitted other than those specified in sub-section (4). Therefore, the board must require the railways to establish a uniform scale on the basis directed by sub-section (2).

The board would have no right to deviate from the declared policy or the directed basis, by taking into account competitive patterns or other rate making principles, which has been the practice in the administration of the present rate controlling sections of the Act.

I can refer to a decision reported in the Canadian Railway Cases where they say one of the elements—the board has held one of the elements to be taken into account in fixing rates is whether it will disturb present rate fixing patterns.

If section 332A is enacted as drafted, it is impossible to foresee to what extent or in what way the powers of the board as set out in sections 314 to 325 may be curtailed.

These rate controlling sections have been the subject of many decisions of the board. Unless the effect of proposed 332A on these other sections is clearly defined, it will take more litigation to clarify the situation.

I can predict that with confidence. If this is superimposed on the present sections you have got a conflict in whole or in part and it will take more than one case to decide just what the situation will be.

We, therefore, submit—and I am only talking of our own interests now—that a reservation should be attached to the declared national freight rates policy to the effect that it is not intended thereby to disturb competitive relationships between different regions or districts. It should be made clear that the Board of Transport Commissioners may have this principle in mind when establishing any new uniform freight rate structure.

So much for that part of our submission. I think it might well be held, in giving effect to the policy and implementing the policy as directed in the Act, that the board cannot have regard to any other matters. It is a directive and they have got to follow it and they cannot say: Well, we will not follow that because it will disturb competitive patterns. We will not follow it because it will amount to unjust discrimination. We cannot deviate from it because it does not give any effect or take into account the density of traffic or other rate making principles.

There is a power of direction—

MR. GREEN: Mr. Fillmore, you think section 332A restricts the present power of the board to prevent unjust discrimination?

THE WITNESS: That is my submission, yes.

I know there are two subsections in section 332A. First you have subsection 2(c) under section 2—to revise any freight rates charged by the company—but that must be with a view to uniformity as directed in subsection 2. It does not mean to do something else altogether.

Then we get down to (f)—“in any other case where the board considers an exception should be made”. That cannot be in all other cases where they think an exception should be made. There might be some particular instances, some exceptional cases, but not where it would generally disturb the competitive relation between the different districts. That is more of a general question.

Now, we pass on to transcontinental rates, section 332B. Before coming to that, however, I would be pleased to answer any questions arising out of the first part of my submission here. It is not in our brief but I might say I think subsections 1 and 2, as drafted or submitted by Mr. Evans, really give the board better scope, give them a freer hand than does 332A as drafted.

MR. GREEN: Which proposal made by Mr. Evans do you mean?

THE WITNESS: The one I read in the report of his evidence. I think it is printed in the book.

MR. WHITESIDE: Page 85.

MR. GREEN: Mr. Evans made more than one suggestion, I think?

The WITNESS: It is the one at page 85. It is a sentence there: "Having due regard to all proper interests—which would give the board a measure of discretion."

Mr. GREEN: Which one is it?

The CHAIRMAN: 332A.

Mr. Mutch: The suggested subsection 1 at the foot of page 85 of our proceedings?

The WITNESS: Yes, and I will not attempt to discuss that because he has already explained it.

Mr. GREEN: You prefer the amendment suggested by Mr. Evans?

The WITNESS: Yes, I do.

By Mr. Laing:

Q. Might I ask a question? At the foot of page 8 you suggest that a reservation be attached to the declaration of a national freight rates policy to the effect that it is not intended thereby to disturb competitive relationships between different regions or districts. How would that be of assistance to any province or anyone appearing before the board?—A. What I have in mind now is that supposing the board holds a hearing and calls on the railways to submit uniform rates, and if we are appearing we would say: "Now, if these rates are put into effect the rates to Winnipeg will be raised and the rates to western Canada will be lowered. We will no longer be able to compete in certain industries with eastern shippers, and we want the rates modified on that ground."

The board might say to us: "Well, we are directed to establish a uniform scale of mileage rates applicable to the system across Canada and we have got to do that. We cannot take into account any other factors of any other interests."

Q. Do you really think that you could have a national freight rates policy whose aim is equalization of rates in all parts of Canada and yet have this amendment put in which would strengthen anybody's position to say: "You are disturbing our set-up which we have operated on, for many, many years."

I am inclined to balance the two?—A. Well, that is the recommendation of the royal commission. This legislation is taken almost verbatim from their report.

By Mr. Johnston:

Q. Well, Mr. Fillmore, what position would the western provinces be in then as far as their industrial set-up is concerned if that suggestion you refer to on page 8 were put in?—A. You mean—

Q. What chance would there be for the advancement and industrial development of the western provinces if that section you mention is put in?—A. What section is that?

Q. Respecting the suggestion you make at the bottom of page 8, what would the probable effect of that do?—A. I think they would be just as good as they are now. We want to maintain the status quo as far as we are concerned; but, if the rates from the central provinces to Saskatchewan and Alberta are lowered that will be to the disadvantage of the development of industries in Saskatchewan and Alberta; manufacturing industries now existing in Saskatchewan and Alberta are in competition with goods shipped from eastern points and if the rates from these eastern points to points of destination are lowered that is going to make competition all the more severe for local western industries.

Q. You want to retain these low rates for Manitoba, of course; that is your point?—A. I want the same relative situation to serve. I don't want it disturbed to the detriment of Manitoba and to the benefit of somewhere else.

By Mr. Green:

Q. You will accept competition from the east, most of your competition is from the east?—A. Yes, that is the main source of competition in Manitoba, that is the competition Manitoba manufacturers have to meet, goods from the east; goods that are manufactured in the central provinces are shipped west to Winnipeg and other western points. We point out that we are already at some freight disadvantage in industry in Winnipeg and industries there even now have to absorb a slight differential in freight to lay down their goods in the west at the same price as is quoted by eastern competitors; and I do not think that it is fair, that something should happen now that should cause us a still greater handicap.

Mr. LAING: Page 9 you show a table there—

The WITNESS: I haven't come to that yet, sir; I was just trying to finish up the other branch of it.

By Mr. Mutch:

Q. Before you leave that point, Mr. Fillmore, when you are speaking of these markets which are contiguous to central Canada—Winnipeg, Calgary, Edmonton or anywhere else—is it not that they get just as much benefit as Winnipeg enjoys, particularly on your main line west of Winnipeg? I mean, you can't draw a circle around the city of Winnipeg and say that within this circle is your normal area? It must by the very nature of geography lie west from Winnipeg. In connection with the rate from Fort William to Winnipeg, there is no concentrated market at all. Would not that be correct?—A. That is our view of the situation. Now, just one other suggestion as an alternative to the railway's suggestion and by way of amendment to section 332A. We would add to subsection 4 (f) the words: "having regard to the effect on established industries and on trade and market patterns."

By Mr. Green:

Q. Would you read that again, please?—A. "Having regard to the effect on established industries and on trade and market patterns." That is the wording taken from the report of the Royal Commission on page 125.

Q. You would add that to subsection (f)?—A. Yes, to 4 (f)—"having regard to the effect on established industries and on trade and market patterns." Now, Mr. Chairman, I turn to page 9, transcontinental rates, section 332 (b):

Transcontinental Rates

Section 332B

Because we do not wish to take up the time of this committee and because we feel that the disruption of trade patterns have been demonstrated by the Manitoba government, we are submitting only one example of the result which would follow the implementation of this section. We do this to put on the record one fact not covered in the Manitoba government's submission and to illustrate what we believe to have been an oversight in the wording of the section. We have chosen as our example steel sheets; a commodity which normally moves on 6th class. These sheets must be purchased by a Winnipeg firm from central Canada and then, whether fabricated or merely stored, must be re-shipped to

their ultimate destination in western Canada at a price competitive with a direct shipment from the east.

At

	Winnipeg	Portage	Yorkton	Saskatoon	Edmonton	Waterways
Freight to Winnipeg ..	\$1.64	\$1.64	\$1.64	\$1.64	\$1.64	\$1.64
Freight from Winnipeg	.....	0.28	0.63	0.93	1.32	1.76
Laid down freight cost	\$1.64	\$1.92	\$2.27	\$2.57	\$2.96	\$3.40
Freight from Montreal	1.64	1.74	2.11	2.42	2.31*	2.95*
Now absorbed by Winnipeg shipper...	.....	0.18	0.16	0.15	0.65	0.45

*These rates are based on the transcontinental rate of \$1.15 to Vancouver, plus the return rate to Edmonton.

With all due deference to the Advocate for the Province of Alberta and at the risk of his being insulted thereby, we submit that Edmonton's natural geographic advantage in this case has resulted in a substantial saving of 60c per 100 lbs. (\$2.91-\$2.31); over 20 per cent. This \$2.31 is lower than the rate to Saskatoon, a shorter distance by over 300 miles. This, by the way, is the same kind of situation which Alberta protested was unfair to them.

If section 332B is passed as it now stands, and if the transcontinental rates are not raised, the following figures would have to be substituted in the above example:

At

	Winnipeg	Portage	Yorkton	Saskatoon	Edmonton	Waterways
Freight to Winnipeg ..	\$1.53	\$1.53	\$1.53	\$1.53	\$1.53	\$1.53
Freight from Winnipeg	.....	0.28	0.63	0.93	1.32	1.76
Laid down freight cost	\$1.53	\$1.81	\$2.16	\$2.46	\$2.85	\$3.29
Freight from Montreal	1.53	1.53	1.53	1.53	1.53	1.53
To be absorbed by Winnipeg shipper ..	.....	\$0.28	\$0.63	\$0.93	\$1.32	\$1.76
Now absorbed by Winnipeg shipper ..	.....	0.18	0.16	0.15	0.65	0.45
Damage to Winnipeg..	.....	\$0.10	\$0.47	\$0.78	\$0.67	\$1.31

So we soon get into the field where if this 1-1/3 formula is enforced we would soon be out of that market.

These tables demonstrate that the Winnipeg shipper would be progressively damaged as the distance extends from Winnipeg.

Please note that Section 332B does not put a ceiling on rates originating and terminating in intermediate territory, so that in this and some other cases, it costs 15% more to ship from Winnipeg to Waterways, Alberta, than it does from Montreal to Waterways, despite the fact that neither Winnipeg nor Waterways is affected by the competition at Vancouver. We assume that this is an oversight and was not the intention of the framers of this legislation.

We respectfully suggest that if a qualifying paragraph were added to Section 332A, and if the mandatory language of Section 332B be modified to permit the Board some discretion which would enable it to relate the intermediate rate to the normal rate as circumstances may warrant, most of our apprehension would be alleviated.

I do not know whether that last suggestion is practicable or not, but we are opposed to that 1-1/3 rule. After all, the 1-1/3 rule is artificial and so far as we know, 1-1/2 or 1-1/4 might be just as reasonable or unreasonable.

The redeeming feature of this Bill, so far as Winnipeg is concerned is the \$7,000,000 subsidy. Of course, everybody likes to be subsidized these days. We understand this Section is being amended and feel it would be inadvisable to comment upon it at this time. In any event, we cannot see that this subsidy would be by any means adequate to offset the disadvantages which are likely to accrue to Manitoba if 332A and 332B are enacted in their present form.

In conclusion may we say that we are not asking for any special favours, but we do ask that we should not be saddled with heavier burdens to the benefit of other areas. We are not opposed to uniformity in principle, but we are apprehensive as to what the result may be if this legislation is enacted in its present form.

That concludes our brief.

The CHAIRMAN: Are there any questions?

Mr. LAING: Mr. Fillmore, in reference to the table on page 9, which deals with steel sheeting—

Mr. MUTCH: It is almost impossible to hear you, Mr. Laing.

Mr. LAING: I find the same situation exists here.

Mr. Fillmore, on page 9, the part of the table dealing with steel sheets. You have a number of firms in Winnipeg—I have one in mind, Kipp Kelly Limited, which manufactures the best grain handling equipment, feed mixers, in Canada, and they supply Canada from Vancouver to Halifax. What effect do you think the freight rates will have on the business of that firm? As long as they manufacture the best equipment for this type of business, the freight rate they pay on steel is not a great factor with them?

The WITNESS: That may be a firm with a better mouse trap, which brings a market to their door. I do not know anything about the quality of their product, but perhaps Mr. Stechishin—

Mr. STECHISHIN: We are told by the grain trade that our particular firm, the one I represent, handle 80 per cent of the grain traffic in western Canada, that is to say, the grain elevator business, which is not quite the same statement Mr. Laing made with regard to Kipp Kelly. They are our competitors, and I do not want to cast any reflection on them, but that is my understanding.

The WITNESS: What is your understanding?

Mr. STECHISHIN: That we handle 80 per cent of the grain elevator business in Canada.

Mr. LAING: Are you also in Winnipeg?

Mr. STECHISHIN: Yes, sir.

The WITNESS: How do they ship to Halifax?

Mr. LAING: I would be prepared to use your firm as an example, then.

Mr. STECHISHIN: We ship to eastern Canada, as well, particular types of grain elevating machinery, but the volume we sell to eastern Canada is not more than five per cent of our total sales.

Mr. LAING: Are you getting your share of the business in eastern Canada or is the business just not there?

Mr. STECHISHIN: We would say we are not getting our share of it.

Mr. LAING: You think you are not getting your share of it?

Mr. STECHISHIN: Yes.

Mr. LAING: On account of the freight rates?

Mr. STECHISHIN: We have to bring the raw material in from the east and ship it back again as a finished product. Any business we do get there is because it is of special design, not because of a lower freight rate, I am convinced of that.

Mr. HELME: Mr. Fillmore, would it be fair to state that Winnipeg benefits from water tariffs to the east for a good portion of the year?

The WITNESS: All western Canada benefits in so far as goods can be shipped by water part of the year. There is a rate on that, I think the rate is from Fort William, and then from Fort William west—if I am not right correct me on that—so that all western Canada benefits so far as goods can be moved by water to and from the head of the lakes.

Mr. HELME: Well, I was particularly referring to the example on page 9. There you are using a rate, entirely a rail rate, I presume.

The WITNESS: I will ask Mr. Stechishin to explain that.

Mr. STECHISHIN: Those figures are based on all railways.

The WITNESS: What would be the result if you took other rates to the head of the lakes?

Mr. STECHISHIN: It would not make any difference in the relative positions because the water and rail rates are a flat arbitrary below the other rail rates, so if it is ten cents below at Winnipeg it is also ten cents below at Saskatoon or any of the other points mentioned. It would not be greater at one place than the other. It would not change the table.

Mr. HELME: On page 10 you show where, by an example, if section 332B is passed, large increases will occur. Would water competition not have some effect of holding off any possible increases there?

Mr. STECHISHIN: No more than it does now.

The WITNESS: Might I explain this? Under the $1\frac{1}{3}$ formula, when in force, the rate to the east from Winnipeg will be exactly the same to start. Perhaps at Brandon or western Manitoba there will be a material reduction. There will be a sort of plateau of transcontinental rates right across Canada.

By Mr. Kirk:

Q. Mr. Fillmore, when you state several times in your brief on page 9 "rates from the east", would you mind defining the east a little more definitely?—A. By the "east" I understand the rates from the Toronto area and from the Montreal area—those industrial areas are the same from central Canada.

Mr. STECHISHIN: We have probably used "easterly" here because in railway terminology that is considered eastern Canada and the other tariffs are so-called maritime tariffs.

By Mr. Laing:

Q. What about your textile industry there, which is growing very, very rapidly? Where do you find markets for that—in Vancouver? There again have you overcome the disadvantages by taking care of modern styles and so on?—A. Well, we have here the manager of the Manitoba Industrial Development. Maybe he could answer that, but offhand I would suggest that in the garment trade and clothing that is manufactured the freight is not such an important element as other things.

Mr. GEORGE FRANCIS (Manager, Manitoba Development Board): May I say a word to that? We have no textile business in Winnipeg as such. There is a needle trade and it is doing well, mainly because the labour rates are somewhat less, so freight rates are not as big a factor.

The CHAIRMAN: Thank you.

Mr. GREEN: Mr. Chairman, I would like to ask Mr. Fillmore a question in connection with his table on page 10.

By Mr. Green:

Q. This table sets out the effect that will follow if section 332B is enacted in its present form. Now, you get the figure of \$1.53 freight to Winnipeg because of the application of this $1\frac{1}{3}$ rule, is that right?

Mr. STECHISHIN: Right.

Mr. GREEN: The \$1.53 over and above the rate to Vancouver?

Mr. STECHISHIN: The \$1.53 is $1\frac{1}{3}$ over the \$1.15 transcontinental rate presently in the tariff to Vancouver.

Mr. GREEN: And your point is that if you get this material at Winnipeg under that rate and then want to ship it out either in original form or in fabricated form you have to pay these rates to Portage, Yorkton, Saskatoon and Waterways?

Mr. STECHISHIN: That is right, there are two freight tariffs involved.

Mr. GREEN: If this section comes into effect then it will be possible to ship competing goods from Montreal to any one of the points mentioned at the same rate that Winnipeg pays?

Mr. STECHISHIN: That is correct. That is shown on the fourth line of that table where the rate is exactly the same to all the points in the table.

Mr. GREEN: Although the distances are a great deal further?

Mr. STECHISHIN: That is correct, sir.

Mr. GREEN: For example, what would the distance be from Winnipeg to Edmonton?

Mr. STECHISHIN: About 850 miles—880, I think.

Mr. GREEN: 880 miles?

Mr. STECHISHIN: Yes, from Winnipeg to Edmonton.

Mr. GREEN: And what is the distance from Winnipeg to Waterways?

Mr. STECHISHIN: That is about 1,300 miles from Winnipeg—about 500 from Edmonton.

Mr. GREEN: And will the section mean that the $1\frac{1}{3}$ rule will apply not only to Edmonton, which is probably on the line by which the goods are shipped to Vancouver if they go Canadian National Railways, but also to all the areas hundreds of miles on either side?

Mr. STECHISHIN: Under the wording of the Act as I interpret it right now, the entire Peace River district north of Edmonton would be subjected to the $1\frac{1}{3}$ rule in spite of the fact that it is away out of line. As a matter of fact, it might be a back haul.

Mr. GREEN: You say that Waterways is roughly 500 miles north of Edmonton?

Mr. STECHISHIN: Yes.

Mr. GREEN: And under this section Waterways, although 500 miles north of Edmonton, gets the same rate as Edmonton and Winnipeg?

Mr. STECHISHIN: That is correct.

Mr. GREEN: And the same thing would apply to Lethbridge—just how many miles is Lethbridge from Edmonton?

Mr. STECHISHIN: About 300 miles south of Edmonton.

Mr. GREEN: The rate to Lethbridge which is 300 miles from Edmonton would be the same as the rate to Edmonton and the rate to Winnipeg?

Mr. STECHISHIN: That is correct—and to Waterways.

Mr. GREEN: And if these goods were shipped by the Canadian Pacific and went through Calgary the same condition would exist, I presume?

Mr. STECHISHIN: Exactly the same rates.

Mr. GREEN: That is, the goods would have to be carried to Calgary and then away up to Waterways which would be how many miles? How many miles from Calgary to Edmonton?

Mr. STECHISHIN: 200, roughly.

Mr. GREEN: It would have to be carried 700 miles up from Calgary to Waterways and yet that would be at exactly the same rate as those goods are carried to Calgary and Winnipeg?

Mr. STECHISHIN: Any point on the intermediate tariff.

Mr. GREEN: And the same would be true to Pouce Coupe?

Mr. STECHISHIN: If it is on the Northern Alberta Railway, yes.

Mr. GREEN: They would get exactly the same rate under this section 332B?

Mr. STECHISHIN: That is correct.

The CHAIRMAN: Any further questions?

By Mr. Mutch:

Q. Before you go, Mr. Fillmore, on page 11 where you make the suggestion:

We respectfully suggest that if a qualifying paragraph were added to section 332A, and if the mandatory language of section 332B be modified to permit the board some discretion which would enable it to relate the intermediate rate to the normal rate . . .

You state that as being in your opinion a way of dealing with this, could you elaborate on that at all? You reached that conclusion as a result of some deliberation, I presume?—A. Well, personally I might say that I am opposed to 332B. This modification suggestion comes from Mr. Stechishin who is supposed to know something about traffic and tariffs, and I would prefer that he would answer that. That is up to him to explain what that means.

Mr. STECHISHIN: Gentlemen, on this particular clause I am fully in accord with Mr. Fillmore in that we do not approve of section 332B. But rather than take the rigid $1\frac{1}{3}$ this is an alternative section and is definitely a second choice as far as we are concerned. The $1\frac{1}{3}$, as has been pointed out before this committee was not recommended by anyone, and we suggest that if we must have some limitation on intermediate traffic why $1\frac{1}{3}$ —why not $1\frac{1}{4}$ or $1\frac{1}{2}$? It may vary with the particular shipment involved and we think if there is going to be any limitation to intermediate traffic it should be at the discretion of the board and not statutory. It could be found in some circumstances that it is not necessary to have any limitation. On the other hand, if parliament feels there should be some limitation it may vary with the particular shipment involved.

By Mr. Mutch:

Q. Would it be fair to say this that in your representation you agree with the position of the province of Manitoba with respect to 332B which I took to be this, that the uniform rate which has been indicated in 332A plus the uniform basic rate plus the retention of the system of competitive rates would be adequate to protect your position?—A. I do not agree with that entirely. We agree with Manitoba that 332B is objectionable, but as I read the Manitoba brief they fall in with the suggestion of uniformity and they seem to think that under

332A as worded the board had ample discretion to protect present competitive patterns, but I do not agree with them. I think that is wrong in principle, and I think the way the rate statute is worded when we get before the board they will say to us, "We are in a strait-jacket; we have got to follow out statutory directives".

Q. When you say "wrong in principle" you do not mean that it is a challenge to the principle of equalization or do you? In British Columbia, for instance, if you read their representations I understood them to say that it is interjecting into the legislation a violation of the principle which has just been enunciated in the previous paragraph?—A. I agree with the Manitoba brief on that point, that this $1\frac{1}{3}$ formula is in conflict with the principle of uniformity but where we differ from Manitoba is that we are apprehensive that by the legislation as now drafted the Board of Transport Commissioners will find their hands tied and it won't be workable.

By Mr. Green:

Q. You are more worried about 332A than the Manitoba government are?
—A. Yes, sir.

By Mr. Johnston:

Q. But your final conclusion is summed up in the last paragraph on page 11:

"In conclusion may we ask that we are not asking for any special favours, but we do ask that we should not be saddled with heavier burdens to the benefit of other areas."

Now, in other words, you want the status quo to remain? And that you would rather prefer that position even though it might benefit some of the outlying areas?—A. That is our submission. If the rates to Winnipeg are raised under any uniform scale and to Manitoba are raised and they are lowered somewhere else, well, we are going to have the heavier burden and I know that it is not considered good form to talk about the railway study before this committee, but there is enough in that to show us what can happen.

Q. In effect, you are not concerned about the other areas; it is the maintaining of the present position of Manitoba?—A. Well, I do not want you to think that I am not selfish—

Q. That is the conclusion; I am just trying to interpret it.

Mr. Mutch: You are just trying to put the answer in his mouth.

The WITNESS: We are not seeking any advantage over what we have got now.

The CHAIRMAN: Are there any further questions of Mr. Fillmore?

By Mr. Green:

Q. You do not want the transcontinental rates interfered with?

The CHAIRMAN: If not, Mr. Fillmore and Mr. Stechishin, on behalf of the committee I would like to thank you for the trouble you have taken in preparing your brief and coming before the committee today to make your representations. Bill 6—section 1?

Mr. GREEN: Well now, Mr. Chairman, there is one thing. I understood that Mr. Matheson was going to make some suggestion in regard to amendments to 332A and also what about these briefs which were to be filed? We have had no word of them yet. I do not think we should consider the sections until we have had at least an opportunity of reading these briefs.

The CHAIRMAN: Well, Mr. Green, if there are any witnesses present from departments or from the railways who want to be heard we will certainly hear

them. So far as the other part of your question is concerned I do think that the committee want to get this legislation back to the House as quickly as possible, but we certainly do not want to deal with any sections which might be dealt with by briefs which must be in certainly by Wednesday of this week.

Now the reason I called bill 6, I think all members of the committee will agree that on bill 6 there will be no reference in the briefs to that bill.

Mr. GREEN: I was only interested in bill 12.

The CHAIRMAN: Right.

Mr. ARGUE: What bill are you calling, Mr. Chairman?

The CHAIRMAN: Now, is there any departmental witness or any railway witness of whom any member of the committee wishes to ask any questions? If so, we will call them now.

Bill 6, section 1—the purpose of the amendment is to provide that the annual report submitted to parliament by the directors of the Canadian National Railways shall contain a separate section giving in a summary manner information concerning co-operative projects. Shall section 1 carry?

Carried.

Shall the Title carry?

Carried.

Shall I report the bill?

Carried.

Bill 7, an Act to amend the Maritime Freight Rates Act. The purpose of the amendment is to confirm the present practice of the Board of Transport Commissioners for Canada and the railways which give the benefit of the Maritime Freight Rates Act to westbound traffic moving rail and lake and also rail, lake and rail from points on the eastern line. Shall section 1 of the bill carry?

Carried.

Shall section 2 of the bill carry?

Carried.

Shall the Title carry?

Carried.

Shall I report the bill?

Carried.

Bill No. 12, section 1.

Mr. GREEN: This is the bill to which I had reference, Mr. Chairman.

The CHAIRMAN: Well, there are many sections, Mr. Green, which will not be dealt with in the expected briefs. Will you read section 1?

Mr. GREEN: There may be some that are not controversial, but most of the main sections are controversial.

The CHAIRMAN: I will try not to call any of the contentious sections this morning. Shall section 1 carry?

Carried.

Section 2?

Mr. ARGUE: Mr. Chairman, in section 2 the provisions now read:

The chief commissioner must have been a judge of the Superior Court of Canada or of any province of Canada or a barrister or advocate of at least ten years' standing at the bar of any such province.

I wonder what the provisions are for the deputy chief commissioner at the present time?

Hon. Mr. CHEVRIER: The provisions are for a salary of \$12,000.

Mr. ARGUE: But the qualifications?

Hon. Mr. CHEVRIER: He must be a lawyer of ten years' standing at the bar. Carried.

Mr. ARGUE: Mr. Chairman, I want to object to that provision whereby the chief commissioner or the deputy chief commissioner must be a lawyer of ten years' standing at the bar of any province. I want to make it clear that I do not object at all to the government appointing as a chief commissioner or as a deputy chief commissioner a man who has been a lawyer of ten years' standing or a greater period. I would not hold it against them at all.

I can see no good reason why the appointment of people to the Board of Transport Commissioners should in any way be confined to the legal profession.

Hon. Mr. CHEVRIER: May I interrupt you for a moment? Perhaps I was misunderstood a moment ago. The chief commissioner must be a lawyer and the assistant chief commissioner must be a lawyer. I took it you were addressing your question to me. But if you were speaking about the deputy chief commissioner, there is no provision in the Act requiring that he be a lawyer. There is to be a chief commissioner, an assistant chief commissioner, and a deputy chief commissioner. The others are members of the board.

Mr. ARGUE: The chief commissioner and the assistant chief commissioner you say must be lawyers of ten years' standing?

Hon. Mr. CHEVRIER: That is right.

Mr. ARGUE: Then my remarks with one exception still stand and I repeat that I can see no reason why the selection of any member of the Board of Transport Commissioners should be confined to the legal profession. I noticed that of the three men who were named to the Royal Commission on Transportation to inquire into freight rates two were professors. One was a professor of economics and another was a professor of political economy. These two gentlemen, as I understand it, were not lawyers. It think it puts the other people on the Board of Transport Commissioners at a great disadvantage. The deputy chief commissioner, as the minister has just said, need not be a lawyer. But even though he may have proved himself to be a most able member of the board, or perhaps even the most able member of the board, nevertheless he is not in line for promotion to assistant chief commissioner or to chief commissioner. Therefore, Mr. Chairman, I move that lines 17, 18, and 19 be deleted from this particular section.

The CHAIRMAN: I think we should have a reasonably full discussion on this subject. I think that many members of the committee will find themselves entirely opposed to the suggestion and will feel that on account of the substantial way in which the powers and the work of the board have been increased, requiring judicial decisions on extremely important matters, that perhaps the qualifications of the board as well as the security of the members of the board should be stepped up rather than lowered.

Mr. ARGUE: I do not think the suggestion would lower the qualifications. It would still leave it up to the Governor in Council.

Hon. Mr. CHEVRIER: No, no. It would not! The Act as it now stands makes it mandatory upon the government to appoint a lawyer with at least ten years' standing to either one of those two positions, and the reason for it is that this is a court of record. Surely you would not appoint a layman to a court. You

would not think of doing that. And the reason for including the assistant chief commissioner is that, very often, the chief commissioner cannot act. I can think of a number of occasions when the chief commissioner was tied up with cases here in Ottawa and when the assistant chief went to Winnipeg or to Vancouver or to the Northwest Territories to hear cases which had to be heard out there; and he sat with two members of the board making a quorum. It had to be a court of record just as it is when the sittings take place in Ottawa.

I am not saying that laymen, very often, cannot do as good a job as some lawyers. But I do say that if the court is to be a court of record, as the statute now makes it mandatory, then I think it would be a mistake not to appoint both the chief commissioner and the assistant chief commissioner from members with some standing at the Bar.

Mr. GILLIS: I think I must support my colleague on the committee. I think it is absolutely wrong in principle, and I think it is wrong for us to write into this Act that those who are practically running the Board of Transport Commissioners, the ones who make the decisions—which in the final analysis is what counts—should be lawyers, that such appointments should be confined to the legal profession. For example, when you are appointing a judge, you go to the legal profession and you get a man who is trained in that particular field; yet, when you are going to make decisions under this legislation and when you are going to make decisions on practical matters that have to do with the railroads and with the fixing of rates, you are precluding in the future the possibility of appointing anyone from the railroads, no matter what his ability may be. No matter how well qualified he may be, you are precluding the possibility of an appointment of a man from the trade itself. I am not suggesting at all that we should pick professors of economics or political science. But I do think there are men on the railroads who have given their lives in that service and who are better qualified, when it comes to determining what freight rates should be, than any lawyer that you can pick.

I have heard some of the most ridiculous presentations come from lawyers, and I suppose I have heard some of the best presentations come from laymen, on subjects with respect to which they were qualified to speak. If you are going to build a house, you will hire a carpenter; or if you want to have a basement excavated, you will hire someone who is trained or qualified to do that particular job. I cannot see why the legal profession should have any monopoly whatsoever when it comes to determining what the freight rates of this country should be. That would be a mistaken proposition and I do not think there are any people better qualified to sit on the board and administer this Act than men who have been working on the railroads in executive positions making these freight rates.

The minister may say that we have these men and we take them in and set them behind the scenes in mediocre positions and that we pay them small salaries; but for the big jobs, we have to pick a fellow who is a legal man, whether or not he knows freight rates. Nevertheless, he is the man who is going to make the decisions.

I know that we are not going to change this principle, but I am absolutely opposed to it. I think it should be left open so that if the government wants to pick someone, they should be free to do so regardless of the fact that he is not trained in the legal profession.

Hon. Mr. CHEVRIER: You seem to be under the impression that we are writing a new principle into the Act.

Mr. GILLIS: No!

Hon. Mr. CHEVRIER: That principle is already in the Act.

Mr. GILLIS: That is right.

Hon. Mr. CHEVRIER: So it is not a new departure. We are simply confirming what is in existence. Let me remind you that there are six members of the board. Of those six, four members—I do not know whether or not they are lawyers—but as to those four members the government is free to appoint laymen, and laymen have been appointed in a number of cases.

Mr. GILLIS: With the exception of the two top people. I am not under the impression it is a new principle but it is a wrong principle and I think it should be changed. If the chamber of commerce was making the argument that this principle should be retained I could understand it—but I cannot when it is made by a progressive person like the minister.

Mr. ARGUE: Mr. Chairman, I would seem to have more faith in the appointments the government might make than perhaps even the minister has—because I am not attempting to prevent the government or the minister from appointing lawyers as chief commissioner or as assistant chief commissioner. I am merely saying it should not be provided in the statute that the government's hands are tied in that respect and that they cannot appoint anyone else.

The minister says that this is a court of record and you need a man with legal training as chief commissioner or as assistant chief commissioner. I would point out that under Section 4 of the bill, paragraph 2, if the board is in doubt about a question of law or question of jurisdiction, an appeal is provided to the Supreme Court of Canada for a decision on that question of law or of jurisdiction. So, I submit Mr. Chairman, that if the board were composed entirely of laymen and they have the benefit of legal advice, even though they happen to be laymen if they made a mistake on a matter of law or on a question of legal jurisdiction there is still provision for an appeal to the supreme court. With that provision in there I can see less reason, if there ever was any reason, for maintaining the provision that the chief commissioner or assistant chief commissioner must necessarily be lawyers.

The CHAIRMAN: Are you moving an amendment, Mr. Argue, or shall I call for a show of hands on the question?

Mr. ARGUE: I moved an amendment—that lines 17, 18, and 19 be deleted. If you want to take that as the amendment and have a show of hands it will be all right.

The CHAIRMAN: You have heard the amendment moved by Mr. Argue to subsection 2 of Section 2. All those in favour of the amendment please signify?

I declare the motion is lost.

Mr. ARGUE: There are a lot of lawyers on the committee.

The CHAIRMAN: Shall section 2 carry?

Carried.

Section 3.

3. Subsection one of section twenty-six of the said Act, as enacted by section two of chapter sixty-six of the statutes of 1947-48, is repealed and the following substituted therefor:

"26. (1) The Chief Commissioner shall be paid an annual salary equal to the salary of the President of the Exchequer Court; the Assistant Chief Commissioner shall be paid an annual salary of twelve thousand dollars, and each of the other Commissioners shall be paid an annual salary of ten thousand dollars."

Mr. LAFONTAINE: Mr. Chairman, I believe there is the greatest disparity between the salary of the chief commissioner and the other commissioners. These commissioners have not got much security under the Penison Act and I believe it would be nothing but fair that the salary which is described there should be increased.

I would move that:

3. Subsection one of section twenty-six of the said Act, as enacted by section two of chapter sixty-six of the statutes of 1947-48, is repealed and the following substituted therefor:

26 (1) The Chief Commissioner shall be paid an annual salary equal to the salary of the President of the Exchequer Court; the Assistant Chief Commissioner shall be paid an annual salary of fourteen thousand dollars, and each of the other Commissioners shall be paid an annual salary of twelve thousand dollars.

The CHAIRMAN: May I have the amendment?

Mr. ARGUE: What is the salary of the chief commissioner now?

Hon. Mr. CHEVRIER: \$15,000 now.

Mr. GREEN: What will it be under this amendment?

Hon. Mr. CHEVRIER: The same as the President of the Exchequer Court—I think it is \$16,000, but I do not know for sure.

I might say a word on this. This amendment introduces of course a new departure and in fairness to the other members of the Board of Transport Commissioners I should say that first of all this bill as it stands here gives the new chief commissioner the same salary as the President of the Exchequer Court of Canada, the assistant chief \$12,000, and the other members \$10,000. That will create quite a differential between the members of the board and the assistant chief commissioner and the chief commissioner.

Mr. LAING: What do the other members get now?

Hon. Mr. CHEVRIER: The members get \$10,000 now.

Mr. LAING: There is no change.

Hon. Mr. CHEVRIER: No change, and neither is there a change for the deputy chief.

Mr. GREEN: What does he get?

Hon. Mr. CHEVRIER: The chief commissioner gets same salary as the President of the Exchequer Court of Canada.

Mr. LAING: What is that?

Hon. Mr. CHEVRIER: \$16,000.

Mr. ARGUE: That particular provision is not changed by this bill?

Hon. Mr. CHEVRIER: Yes, it is.

Mr. McNAUGHT: What was it formerly?

Hon. Mr. CHEVRIER: It used to be \$15,000. The present position is \$15,000, \$12,000, and \$10,000. If this bill goes through it stands at \$16,000, \$12,000, and \$10,000. If the amendment goes into effect it will be \$16,000, \$14,000, \$13,000, and \$12,000.

Mr. GREEN: In other words the assistant chief commissioner and the ordinary chief commissioners will have their salaries increased by more than the chief commissioner?

Hon. Mr. CHEVRIER: Oh, no. How did you put that?

Mr. GREEN: If this amendment is passed?

Hon. Mr. CHEVRIER: Mr. Lafontaine's amendment?

Mr. GREEN: Yes, there will then be a greater increase in the salaries of the ordinary commissioners and the assistant chief commissioner than there will be in the salary of the chief commissioner?

Mr. LAING: If he gets \$1,000 and the others get \$2,000?

Mr. GREEN: If the section as it stands in the bill is carried the chief commissioner will be increased by \$1,000.

Hon. Mr. CHEVRIER: Yes, yes, that is right.

Mr. GREEN: The assistant chief and ordinary members will not get any increase at all?

Hon. Mr. CHEVRIER: That is right.

Mr. GREEN: The new amendment proposes to give the other members nearly double the increase which is going to go to the chief commissioner?

Hon. Mr. CHEVRIER: What the amendment seeks to do, and I was going on to explain that, is to lessen the differential between the members of the board. What I was going to say was—and this has been brought to my attention: first of all the Royal Commission on Salaries, the Borden Commission, made a recommendation some time ago that the salaries of the members of the Board of Transport Commissioners should be \$2,000 greater than that of any other board. The government has never given effect to that recommendation, rightly or wrongly I am not disposed to say.

Mr. GREEN: Has or has not?

Hon. Mr. CHEVRIER: It has not, I say. Then, the Royal Commission on Transportation deals with that subject too and feels that the members of the board should be given somewhat better treatment, and so recommend.

Mr. GREEN: Where is that?

Hon. Mr. CHEVRIER: I do not know where but I can get it.

Mr. LAING: Does the commission recommend a general increase to all members of the board?

Hon. Mr. CHEVRIER: It did not use the word "increase" but it uses another word.

Mr. GREEN: Recommended the strengthening of the board, was that it?

Hon. Mr. CHEVRIER: No, no. In any event, there is a recommendation in the report having to do with the members of the board.

Mr. GREEN: Can we get that?

Hon. Mr. CHEVRIER: I will get it.

Mr. JOHNSTON: Is it on page 268?

Mr. LAFONTAINE: There is something on page 268.

Hon. Mr. CHEVRIER: Well, I would rather get it after I sit down if I may.

Mr. WHITESIDE: Page 273, it is a conclusion.

Mr. ARGUE: Does it mention salaries?

Mr. WHITESIDE: Yes, about the middle of the page.

Hon. Mr. CHEVRIER: "Dr. McLean's recommendation of a life tenure was not acted upon but the principle implied in it might well be adopted now by making the position of the members of the board similar to that of judges of the Court

of Exchequer, with retirement of the age of seventy-five years. The statutory qualifications of the chief commissioner and assistant chief commissioner should continue as at present. It is not suggested that the Railway Act determine any particular qualifications for the other members because such a provision might stand in the way of some desirable appointments. It must be left to the discretion of the Governor in Council to decide in each case what qualifications shall be required of the appointee".

That is the reference in the report which I have in my hand. I thank you for bringing it to my attention. Now, if the committee feels that the discrepancy between the members of the board and the chief commissioner is such that it should be altered—this means a change in the principle of the Act—I would have to obtain the consent of my colleagues before this could be accepted. I would like to get the views of the committee. If the committee feels this should be done then all I can say is that I would have to seek the advice of my colleagues and if they are agreeable I could let the committee know.

Mr. BROOKS: The commissioner's expenses are paid?

Hon. Mr. CHEVRIER: Yes, they are.

Mr. BROOKS: Do they get their actual expenses, or a per diem allowance?

Hon. Mr. CHEVRIER: No, they are paid their actual expenses.

Mr. MUTCH: Do they get their expenses when they are sitting in Ottawa?

Hon. Mr. CHEVRIER: No.

Mr. MUTCH: Therefore, for the purposes of the Act, when they sit here in Ottawa they pay their own expenses.

Hon. Mr. CHEVRIER: That is right.

Mr. RILEY: I wonder if the minister could tell us if the department has experienced any difficulty in the past in obtaining the services of persons to act as commissioners at these particular salaries, particularly in view of the fact that the tenure of office is only ten years.

Hon. Mr. CHEVRIER: Yes, we have experienced difficulty ever since these freight rate hearings have gone on. Since 1947 on, down to the report of the Royal Commission on Transportation it has become increasingly difficult to get men of the calibre and competence referred to in the various reports for the salaries as they now exist under the Act.

Mr. ARGUE: I wonder if the minister could tell us how long this \$10,000 salary has been in effect, how long since there was any change?

Hon. Mr. CHEVRIER: Ever since I have been in parliament it is my recollection that that has been the rate, but there may have been an amendment in 1939, or somewhere around there.

Mr. MUTCH: I think it has not been changed since 1927.

Hon. Mr. CHEVRIER: It is a matter of four or five years, I know that, that this \$10,000 salary has been in effect. The salary of the chief commissioner has risen from \$12,000 to \$13,500, and then from \$13,500 to \$15,000. It is now recommended by this bill to bring the salary in line with the salary of the president of the Exchequer Court.

Mr. LAING: But if you raise the salary of the chief commissioner you would have to raise the salaries of the others also, would you not?

Hon. Mr. CHEVRIER: That is possible.

Mr. ARGUE: What would the cost of such an increase be to the government?

Hon. Mr. CHEVRIER: That would amount to \$2,000 per commissioner per year.

Mr. ARGUE: How many commissioners?

Hon. Mr. CHEVRIER: Four commissioners; and in the case of Mr. Lafontaine's suggestion that the deputy chief commissioner and the assistant chief commissioner receive \$13,000 and \$14,000 respectively, that would be an additional \$1,000 a year each.

Mr. ARGUE: That would make a total increase in cost of \$9,000 a year?

Hon. Mr. CHEVRIER: That is right.

Mr. MACDONALD: I recognize that the board requires a continuing efficient and commanding personnel. There have been amounts involved in rate cases running to hundreds of millions of dollars. As these salaries have not been increased over a long period of time I suggest that now is the time to put these increases into effect, and for that reason I support the amendment which has been moved by my colleague, Mr. Lafontaine.

The CHAIRMAN: Is there any further discussion?

Mr. GREEN: Mr. Chairman, as I understand the report of the Royal Commission it in effect recommended strengthening the board, but I do not see that we have had any ground work laid at all for basing salaries. There is some good reason for it in the case of the chief commissioner because I think there has been a new policy adopted with regard to the chief commissioner, and I agree that he should be given a status similar to that of the president of the Exchequer Court; and, in order to bring that about, his salary is being raised by \$1,000. And now, if in addition to that you change the plan as set out in this bill and increase the others \$2,000, and in one case by \$3,000; I think to do that is without justification. Of course if the government accept responsibility for making an increase of that kind nobody could stop them. This is just one more case of adding on expense and letting the public do the worrying. I do not think there has been any ground work laid at all to support any such increases and, personally I would be opposed to the amendment.

Mr. RILEY: Mr. Chairman, I am amazed that Mr. Green should question any attempt to change the plan of the government on any particular bill, but this is a question which has been in my mind for some time, that of obtaining the services of the type of man whom we want to have on this commission.

Mr. GREEN: You are not getting new men; they are the same men.

Mr. RILEY: But tenure of office does not extend beyond 10 years and tomorrow one of them may resign, or four or five of them may resign; and I have no doubt at all that men of the calibre necessary to fill these positions have rejected offers made to them by the government, because being successful in the practice of law or being well established in business they cannot see fit to give up their practice or to leave their businesses for a period of 10 years at what is not by any means an attractive offer, or by any means an attractive compensation. I had no knowledge that this amendment was forthcoming but I welcome it, and I think it is a question that should be discussed by the cabinet; and this may be the proper time to make some change. The question of obtaining the services of men of this kind is one of paramount importance, particularly on the Board of Transport Commissioners, and unless there is some more forceful argument than that put forward by Mr. Green I would be in favour of supporting the amendment.

Mr. ARGUE: Mr. Chairman, as far as the additional cost to the government is concerned, that would mean only about \$9,000 a year. I cannot speak for the group with which I am associated. I cannot speak for my province either. But I do know that there has been a great deal of criticism of the board in the past on the ground that the members of that board for some reason or other were not able to tackle this whole freight rate problem. I know that the last rate increase of 12 per cent will cost western Canada something like \$30 million. If \$9,000 a year would get us better action on the Board of Transport Commissioners, it would be false economy, I believe, for me to oppose that \$9,000 increase when it might result in a saving to the people of western Canada of hundreds of thousands of dollars in freight rates.

The CHAIRMAN: Are you ready for the question? I will call for a show of hands. Those in favour?

Mr. LAING: If the amendment carries to establish the new rates that would reduce the salary of the chief commissioner?

The CHAIRMAN: No.

Mr. LAFONTAINE: It would leave that as it is.

Mr. LAING: Oh, we would still leave the chief commissioner's salary where it is?

Mr. LAFONTAINE: Yes.

The CHAIRMAN: Are you ready for the question? I am simply going to ask for a show of hands of those in favour of the increases and those who are opposed to the increases. On account of the principle involved in it I cannot put the amendment until the minister has cleared it with his colleagues and is prepared to recommend it. Those in favour of the proposed amendment to increase the salaries of commissioners, please indicate.

Mr. RILEY: Will you just read the amendment?

The CHAIRMAN: The amendment is to amend clause 3 of the bill to read as follows:

"Subsection 1 of section 26 of the said Act as enacted by section 2 of chapter 66 of the statutes of 1947 and 1948 is repealed and the following substituted therefor: The chief commissioner shall be paid an annual salary equal to the salary of the president of the Exchequer Court, the assistant commissioner shall be paid an annual salary of \$14,000, the deputy chief commissioner \$13,000, and each of the other commissioners shall be paid an annual rate of \$12,000."

All those in favour of the proposed increase, please signify. Mr. Argue, are you voting? Those in favour? Opposed?

The proposed amendment carries, with four members of the committee voting against, Mr. Minister, as you see.

Section 3 of the bill will stand.

Section 4—appeal to Supreme Court as to question of law or jurisdiction.

Shall the section carry?

Carried.

Section 5—regulations as to publication.

Shall the section carry?

Carried.

Section 6. Shall the section carry?

Carried.

Division of freight tariffs.

7. Sections three hundred and twenty-eight to three hundred and thirty-two of the said Act are repealed and the following substituted therefor:

"328. (1) The tariffs of tolls that the company is authorized to issue under this Act for the carriage of goods between points on the railway are:

- (a) class rate tariffs;
- (b) commodity rate tariffs;
- (c) competitive rate tariffs; and
- (d) special arrangements tariffs.

Class rate.

(2) A class rate is a rate applicable to a class rating to which articles are assigned in the freight classification.

Commodity rate.

(3) A commodity rate is a rate applicable to an article described or named in the tariff containing the rate.

Competitive rate.

(4) A competitive rate is a class or commodity rate that is issued to meet competition.

Special arrangement.

(5) Special arrangements are charges, allowances, absorptions, rules and regulations respecting demurrage, protection, storage, switching, elevation, cartage, loading, unloading, weighing, diversion and all other accessorial or special arrangements that in any way increase or decrease the charges to be paid on any shipment or that increase or decrease the value of the service provided by the company.

The CHAIRMAN: I propose to indicate to the committee now the sections that I intend to mark 'stand.' 332A and 332B.

Mr. GREEN: Well, there are other controversial points besides 332A and 332B.

The CHAIRMAN: I believe those are the only sections, Mr. Green, on which we will receive briefs, but if there are any others you can indicate them as we go along.

Mr. GREEN: I think section 7 should stand, as a whole.

Mr. LAING: What about section 6? That is really only a proviso to bring the new Act into force by dropping present tariffs?

Hon. Mr. CHEVRIER: That is right—it is to eliminate the passenger tariffs.

The CHAIRMAN: Is there any reason why I should not call section 328(1)?

Mr. GREEN: There were arguments put up on one of those sections, on those new sections which are covered by section 7 of the bill.

The CHAIRMAN: Do you anticipate any briefs on clause 328(1)?

Mr. GREEN: I do not know what is in the briefs, or cannot anticipate what is in them any more than you can, and I suggest that section 7, should stand.

The CHAIRMAN: I understand that the arguments directed to section 328(1) were as to legal points on the form of the section and that there was no conflict or opposition to the intention desired.

Mr. GREEN: For example, there were amendments suggested to 328.

The CHAIRMAN: Yes, but the Canadian Pacific solicitor said he had no objections.

Mr. GREEN: The Maritimes asked for an amendment to section 328.

Hon. Mr. CHEVRIER: No.

Mr. GREEN: Yes, they did, they asked that wharfage be included in 328(5). There were amendments to 329 suggested by Saskatchewan and also by Alberta. I would suggest that section 7 of the bill be allowed to stand until we have the evidence in, and also until we have a chance to consider the evidence that has already been given. For example, we have not yet got the brief of British Columbia—that is to say the submissions of British Columbia have not yet been printed.

Hon. Mr. CHEVRIER: May I just say one thing here. If my recollection of the evidence is correct, all of the provinces approved of section 328, and when I say all of the provinces I include the Maritimes because I do not consider that the addition of the word "wharfage" would change the principle in section 328, but, anyhow, any amendments suggested to 328 were amendments suggested by the Canadian Pacific Railway, and I must say now that I am not prepared to accept any of the amendments of the Canadian Pacific Railway to this section.

Mr. GREEN: That may be, but I suggest that we carry out the work of this committee in the same manner as the work has been carried out on other committees on which I have sat. We have first heard the evidence and had the briefs filed, then we have gone on to consider the bill section by section. Now, for some reason or other, that course is not being followed in this committee and I think it is unwise to deviate from the usual course, and I am afraid in the long run it will only result in a longer delay in the completion of the work of the committee.

The CHAIRMAN: I do not mind stating frankly, Mr. Green, that I do not anticipate any briefs will be received from chambers of commerce, boards of trade or others, other than briefs directed at sections 332A and 332B. I was also under the impression that the committee would want to take some little time to study the proposed amendments suggested by the C.P.R. As to the other sections of the bill, I may say there are amendments dealing with the detail and with the legal form in which these different matters are to be covered by the bill. I understood Mr. Evans distinctly to state—and he is here and I believe he will agree—that in so far as the intent to be covered by those non-contentious sections is concerned there is no difference of opinion, the difference of opinion arises on the actual wording or the machinery of the section.

Now, I would anticipate we would have quite a little discussion as to each of these in regard to the proposed amendments by the C.P.R., and why should we waste our time and adjourn because of those sections when we are not going to receive any briefs on them from boards of trade or chambers of commerce and the like?

Mr. GREEN: You do not know what the brief of the Toronto Board of Trade will contain.

The CHAIRMAN: That brief has been mentioned about five times, and I am now going to phone the Board of Trade of Toronto and get that brief here, and I will make a copy of it available to Mr. Green immediately.

Hon. Mr. CHEVRIER: It did not seem to worry them for 2½ years while all this was going on. I think Ontario is pretty well represented at these meetings and I believe if there were anything to say on their behalf it would be said.

Mr. GREEN: On the contentious clauses you are not saving time by putting them through now.

The CHAIRMAN: I anticipate the committee would like discussions; if you want them to go through without discussion, that is all right with me. In deference to our new member for Toronto, shall we adjourn to meet at the call of the chair?

Carried.

The meeting adjourned.

SECOND SESSION OF 1951

HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

RAILWAY LEGISLATION

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

IN RELATION TO

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act,
1933;
Bill No. 7, An Act to amend The Maritime Freight Rates Act;
Bill No. 12, An Act to amend The Railway Act.

TUESDAY, NOVEMBER 20, 1951

WITNESS:

Mr. J. L. Knowles, Special Adviser of Traffic to the Royal Commission on
Transportation and Adviser to the Committee.

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

ORDERS OF REFERENCE

MONDAY, November 19, 1951.

Ordered,—That the name of Mr. Wylie be substituted for that of Mr. Low on the said Committee.

TUESDAY, November 20, 1951.

Ordered,—That the name of Mr. McLure be substituted for that of Mr Browne (*St. John's West*) on the said committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

TUESDAY, November 20, 1951.

The Special Committee on Railway, Legislation met at 11 o'clock a.m. this day. Mr. Hughes Cleaver, the Chairman, presided.

Members present: Messrs. Argue, Ashbourne, Brooks, Byrne, Chevrier, Churchill, Gillis, Green, Holme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Macdonald (*Edmonton East*), MacNaught, Macnaughton, McCulloch, Mutch, Nowlan, Riley, Weaver, Whiteside, Wylie.

In attendance: Mr. Hugh E. O'Donnell, K.C., Montreal, appearing on behalf of the Canadian National Railways with Mr. H. C. Friel, K.C., General Solicitor for the Canadian National Railways; Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company with Mr. C. E. Jefferson, Vice-president of Traffic, and Mr. K. D. M. Spence, Commission Counsel, also of the Canadian Pacific Railway; Mr. L. J. Knowles, Special Adviser of Traffic to the Royal Commission on Transportation and Adviser to the Committee; Mr. W. J. Matthews, K.C. Department of Transport; Mr. J. J. Frawley, K.C., representing the province of Alberta; Mr. C. W. Brazier representing the province of British Columbia; and Mr. Rand Matheson, Executive Manager, and Mr. F. D. Smith, K.C., Counsel, of the Maritimes Transportation Commission, and also representing the four Maritime provinces.

The Chairman presented a report of the Agenda sub-committee recommending that the briefs received, or to be received, from the following representative organizations, be printed as appendices to the Minutes of Proceedings and Evidence:

- Canadian Manufacturers' Association
- Canadian Industrial & Traffic League
- Canadian Fruit Wholesalers' Association
- Calgary Board of Trade
- Montreal Board of Trade
- Toronto Board of Trade
- Vancouver Board of Trade

The report of the Agenda sub-committee was adopted; and to provide members of the Committee an opportunity to study the various briefs before the next meeting, it was ordered that they be mimeographed and distributed as expeditiously as possible.

(The above-mentioned briefs will be printed as appendices to the next following Minutes of Proceedings and Evidence, No. 8)

On motion of Mr. Green:

Resolved, That a brief received by several members of the Committee from the Okanagan Federated Shippers Association be printed as an appendix to the Minutes of Proceedings and Evidence.

(To be printed as an appendix to the next following Minutes of Proceedings and Evidence, No. 8)

The Committee then resumed the clause by clause consideration of Bill 12, An Act to Amend the Railway Act.

Mr. Knowles was recalled, was further questioned and retired subject to recall.

Mr. Chevrier, Minister of Transport, tabled the several amendments he proposed to move on various clauses of the Bill, and it was agreed that the said amendments be considered before the remaining clauses.

On Clause 7:

On motion of Mr. Chevrier:

Resolved: That subsection 4 of Section 332A be amended by substituting for sub-paragraph (f) the following:

(f) rates applicable to movements of freight traffic upon or over all or any of the lines of railway collectively designated as the "Eastern Lines" in the Maritime Freight Rates Act as amended by The Statute Law Amendment (Newfoundland) Act.

And adding as sub-paragraph (g) the former sub-paragraph (f), namely:
(g) any other case where the Board considers that an exception should be made from the operation of this section.

On Clause 18:

Mr. Chevrier moved that clause 18 be amended by adding thereto the following subsection (5):

"(5) The amounts paid under subsection one shall be applied to a reduction in the relative level of rates applying on freight traffic moving between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the Board may allow or direct."

After some discussion it was agreed to consider the amendment at the next meeting of the Committee.

On Clause 7:

Section 330 (1) was considered and adopted.

On Section 330 (2):

On motion of Mr. Chevrier:

Resolved, That sub-section 2 of Section 330 be amended by inserting after the word "unless" the words, *and until*; and by inserting after the word "Board" the words *be conclusively deemed to be just and reasonable and shall*.

Section 330 (2), as amended, was considered and adopted.

On Section 332:

Mr. Chevrier moved that the Section be amended by inserting after the word "Act" the words *other than a competitive rate*.

After some discussion it was agreed to consider the amendment at the next sitting of the Committee.

In order to provide the members of the Committee with an opportunity to study the several amendments submitted by Mr. Chevrier and allowed to stand, it was ordered that these be mimeographed and distributed as soon as possible.

At 1.00 o'clock p.m. the Committee adjourned to meet again at 11.00 o'clock a.m., Friday, November 23, 1951.

R. J. GRATRIX,
Acting Clerk of the Committee.

NOTE: The following is an amendment tabled by Mr. Chevrier but not acted upon at this meeting of the Committee:

Proposed amendment re 329 (b)

Strike out paragraph (b) of section 329 and substitute therefor the following:

(b) may, in addition, specify class rates between specified points on the railway and when such rates are established in groups the rate between the groups may be higher or lower than the rates specified under paragraph (a).

EVIDENCE

NOVEMBER 20, 1951

11 a.m.

The CHAIRMAN: Gentlemen, we have a quorum, and before we carry on with our general work I would like to make a brief report from the agenda committee.

We met this morning at a quarter to eleven. The following organizations have indicated their desire to file briefs for consideration by the committee and your agenda committee has expressed its approval that all of these briefs should be printed in our Minutes of Proceedings and Evidence—the Canadian Manufacturers' Association, the Canadian Industrial Traffic League, the Canadian Fruit Wholesalers' Association, the Calgary Board of Trade, Montreal Board of Trade, Toronto Board of Trade and Vancouver Board of Trade. Briefs have now been received from all of the above noted organizations excepting three, and the remaining three are promised by tomorrow. Your agenda committee recommends that these briefs should be printed.

Mr. JOHNSTON: What three are missing, Mr. Chairman?

The CHAIRMAN: The three missing are the Canadian Industrial Traffic League, the Calgary Board of Trade and the Toronto Board of Trade. This morning, I believe, the minister intends to table all amendments to be proposed by his department. I would hope that we would clear this morning the amendments in regard to maritime freight rates and we will have mimeographed copies prepared of all of the briefs and delivered to all members on the committee today so that you will have plenty of time to study them and the proposal is that we would then adjourn after we complete our sitting this morning until Friday morning. The original intention was that we would adjourn until Monday, but I am told that the Board of Transport Commissioners start their rate hearing on Monday and it is going to be very inconvenient to counsel and others if we do not complete our work on Friday.

Mr. GREEN: Mr. Chairman, there is one other brief which, you will remember, was mentioned in the steering committee and that is from the Okanagan Federated Shippers' Association. It was put in in connection with bill 377, which was the bill brought in during the previous session but I think it applies equally to the present session. Possibly it could be printed with the others?

The CHAIRMAN: Mr. Green, we will accept your motion. All those in favour so signify?

Carried.

Mr. GREEN: There is one point arising out of yesterday's sitting. As you will remember, we were discussing the question of salaries of the Board of Transport Commissioners and the minister told us there had been no increase for fifteen or twenty years.

Hon. Mr. CHEVRIER: No, I did not say anything of that nature; I said nothing of that nature that there had been no increase for fifteen or twenty years. I was dealing with the \$10,000 people, having to do with members, and I said there had not been an increase for perhaps five or ten years, but I was calling on my memory and I have since inquired and the last increase was in 1947.

Mr. GREEN: I think we should have it on the record. In 1947 by chapter 70 of the statutes of that year amending the Railway Act provision was made—

“The chief commissioner shall be paid an annual salary of \$13,500, the assistant chief commissioner an annual salary of \$12,000 and each of the other commissioners an annual salary of \$10,000.”

Now, those increases were from figures of \$12,500 for the chief commissioner, \$9,000 for the assistant chief commissioner and \$8,000 for the other commissioners. So that they had their salaries increased in 1947 by the sum of \$2,000 and the assistant chief commissioner had his increased by \$3,000.

The CHAIRMAN: And as you now know, Mr. Green, of course all salaries of judges have recently again been increased. Mr. Knowles, may I recall you on one point?

Mr. L. J. Knowles, Special Adviser of Traffic to the Royal Commission on Transportation and Adviser to the Committee, recalled:

By the Chairman:

Q. I believe you commented the other day in regard to transcontinental rates and I would like to make absolutely sure that I understood you correctly as to the effect of transcontinental rates on United States lines. Would you please indicate rather fully the effect of that competition on our transcontinental rates? Many members of the committee have from time to time indicated their fear that perhaps if the new rule of $1\frac{1}{2}$ goes into effect it might be that the Canadian transcontinental rate would substantially increase?—A. Well, I think I can answer that this way, Mr. Chairman; I have taken occasion to check up with the two rate men who issued the transcontinental tariff two years ago, just shortly after I went to the royal commission, to find out what the bases for the rates were. While I have not got detailed information right down to the last rate, the rates are made—about 50 per cent of the rates in the transcontinental tariff are on the basis of the New York-Seattle rates, which are applied to Vancouver by the Great Northern Railway which runs into Vancouver. That is the maximum controlling figures that you can get if you want to meet American competition.

Now, there are a few rates like on automobiles from Detroit to Vancouver that control the rates from Windsor and Oshawa. I think there is a rate from a point in Ohio which is the principal stove manufacturing point on stoves.

By Mr. Green:

Q. What was that about Windsor and Oshawa? Will you repeat that?—A. The rate from Detroit to Vancouver controls the rates from Windsor and Oshawa if you want to sell Canadian automobiles in Vancouver. The rate on stoves from Ohio to Vancouver controls the rate on stoves from the central region of Canada to Vancouver, also to meet American competition.

As for the rest of the tariff, the bulk of the rates are to meet the competition of the Monson-Clarke Steamship Company from Montreal to Vancouver. There is an odd rate that is not made to meet any of those competitive conditions.

As I told you yesterday, the rate on iron piping is made to meet the rates on piping that is carried from Great Britain to Vancouver at practically ballast rates. I understand they are grain boats and for the purposes of ballast take pipe for anything they can get for it and take the grain back.

I think there is one rate on salt which is made to meet the competition of salt from the British West Indies into Vancouver. So, you have three or four

types of competition controlling those transcontinental rates, but the maximum is generally the New York-Seattle-Vancouver basis or Detroit-Seattle-Vancouver basis as the case may be, and my opinion, for what it is worth, is that that American competition will always control the maximum rates that the Canadian railways can get to Vancouver for their transcontinental traffic.

By the Chairman:

Q. Well, do I understand you correctly, then, that it is your opinion that the present legislation now before the committee would not seriously affect or would not really affect in any material way the heights of the transcontinental rates?—A. Generally speaking I think that is true, Mr. Chairman. I have to clarify it by this: You are going always to have trouble by a few of those freak rates like the rate on pipe and iron and steel and perhaps canned goods to Vancouver where the rates have to be so low, if the railways want to get in on that business, that you will always have trouble at the intermediate points. Whether the railways will go out of the business to save their faces on the intermediate points I do not know, but so far as I can see there are only three cases you will have any difficulty with; with the rest of the tariff I do not see any difficulty at all.

Q. What is the third one, Mr. Knowles?—A. I mentioned canned goods, pipe and iron and steel.

By Mr. Green:

Q. What was the last one?—A. Canned goods, pipe and iron and steel.

Q. Of course, iron and steel is a very important one, is it not?—A. It is very important. As I said yesterday, I am perfectly certain that the railways will maintain a reasonable commodity rate to the coast if they have to take out the competitive rates.

Q. And that rate is bound to be higher than the transcontinental rate?—A. Naturally it would be. I do not think you can maintain that very low iron and steel rate in the past compared with the rate to Alberta and Saskatchewan.

Q. And people on the coast are certainly going to have to pay higher rates on iron and steel products, are they not?—A. But, Mr. Green, you can always get that by boat from the eastern United States or from eastern Canada or from Great Britain. I do not see why you would be worrying about the railways maintaining a low rate of \$1 and \$1.25 on iron and steel from the east coast.

Q. You think if we should be forced back to dependence on boats we should lose the benefit of this railway competitive rate?—A. I would not express an opinion on that; you have always got the boats there and you can use them.

HON. MR. CHEVRIER: You were objecting to the way I was cross-examining the witness the other day. You should not be following the same method.

MR. GREEN: What the chairman was just doing a minute ago was putting words into the witness's mouth.

By Mr. Green:

Q. Your statement in effect means that you want us on the Pacific coast to be put back in a position where we have to depend on the boats?

MR. MACNAUGHTON: No, Mr. Chairman, the witness did not say that at all.

HON. MR. CHEVRIER: I do not think you are being fair to the witness.

MR. GREEN: He is a very intelligent man. He does not need any help from the minister or Mr. Macnaughton at all.

Mr. MACNAUGHTON: But you should not force the opinion down his throat.

Mr. GREEN: I am not forcing his opinion down his throat at all.

The CHAIRMAN: I think, Mr. Green, the answer to your question would be of some help to us if you were content to ask the question instead of stating an answer.

By Mr. Green:

Q. Well, Mr. Knowles, do you believe then—

The CHAIRMAN: That is better.

By Mr. Green:

Q.—that we are amply cared for if we have got the boat shipments?—A. If you have got the boat shipments?

Q. Yes.—A. Well, that is a question of economics and trade. I do not know the nature of the trade in Vancouver, but I know some things the boats would not handle and you have to depend on the railways.

Q. Well, that is just the point; that is why we are not satisfied to take a chance on the boats, as you suggested we might a few minutes ago.—A. Let me put it this way. You can always control the railway rates by the boats to Vancouver.

Mr. JOHNSTON: How much more do you want?

By Mr. Green:

Q. If we can get them?—A. If you can get the boats?

Q. Yes.—A. In that case you are not entitled to a competitive rate if you cannot get the boats.

Q. By the way, was this suggestion of $1\frac{1}{3}$ your suggestion?—A. I cannot say whose it was. I already told you that that was an interior matter with the royal commission that is under the Official Secrets Act and I could not tell you what commissioners tabled it.

Q. We have had evidence given that it was not discussed at all before the royal commission. Now, somebody drew this idea out of the hat and I would like to know if it was you.

The CHAIRMAN: The answer, as stated, is that the witness declines to answer. He is quite within his rights. If you are short of boats you will have to do without the bird seed and the toilet paper.

By Mr. Green:

Q. We are not as worried about bird seed as we are about automobiles. I won't deal with the other items, but the iron and steel is a very, very serious item on the west coast, as you know.—A. That is quite true and, by the way, I have some figures on the situation that I had overlooked when I spoke before. I found them in my office at home and I found that I had investigated the transcontinental rates from 1936 to 1940 and the traffic that the Canadian National Railways has handled on the transcontinental rates, and it amounts to one-tenth of one per cent of the Canadian National total freight rates.

Q. Of the Canadian National?—A. Yes.

Q. That is another point I wanted to ask you about. Do the Canadian National and the Canadian Pacific use these transcontinental rates equally or does one have far more business than the other?—A. They are identical, Mr. Green, by the Canadian National and the Canadian Pacific.

Q. The rates are identical but what about the amount of goods carried by the two lines?—A. I do not know.

Q. You have no knowledge of the amount of goods carried on the transcontinental rates by the Canadian Pacific?—A. No, sir, I would not have that knowledge.

Q. The only knowledge you have is what you have derived from the Canadian National?—A. That is right.

Q. And I suppose you will admit that they carry far less there in transcontinental—

The CHAIRMAN: If he does not know, Mr. Green, we should call a railway witness to find out.

Mr. GREEN: Well, if he does not know let him say so. I am asking him if that is so or not.

The WITNESS: My opinion, Mr. Green, is that the Canadian National carries as much or more transcontinental traffic westbound—and by the way those figures I gave you are westbound—as the Canadian Pacific, because we have a much greater originating territory in the east than the Canadian Pacific; we have twice the mileage in eastern Canada that the Canadian Pacific has.

Q. What about the freight eastbound?—A. I think there is probably quite a substantial movement eastbound of lumber, fruit and fish from the Pacific coast to eastern Canada.

Q. But I mean in comparison between the Canadian National and the Canadian Pacific?—A. I cannot tell you how they divide, Mr. Green.

Q. You realize that the Canadian Pacific has far more tributary lines in British Columbia than the Canadian National?—A. That is right, that is correct, yes. They may have more transcontinental traffic than we have, despite their less destination territory than we have.

Q. In any event, you really do not know what the Canadian Pacific has got?—A. No sir, I would not be expected to know what their figures are.

By Mr. Laing:

Q. Mr. Knowles, you have stated at the present—I assume it is in the last year—the amount of traffic involved is such as to provide one-half of one per cent of the total revenue of the Canadian National Railways?—A. The transcontinental traffic?

Q. Right.—A. No, I was talking about tons. We averaged about 50,000 tons per year during those five years and our total tonnage on the Canadian National is somewhere between 50 and 60 million tons; that is about one-tenth of one per cent.

Q. That would not apply in the years 1941 to 1944? What would the figure be then?—A. I cannot tell you, sir, because I only kept the records from 1936 to 1940. It is a tremendous job to go through the waybills every year at Vancouver and find out where each car comes from and put it down on paper and the number of tons in each car and the commodities.

Q. I think what we are principally concerned about there is steel and steel products?—A. That is right.

Q. Because in those years we built a great number of ships in Vancouver. We had advantages there because we could build ships every day in the year and the Lloyd's surveyors who took over those ships said they were very, very satisfactory boats.

The CHAIRMAN: And off the record I think it would be fair to say that your War Expenditures Committee found that on the west coast your record was a little better than Kaiser's.

Mr. LAING: I think that is right. They did an excellent job out there at that time.

By Mr. Laing:

Q. That steel, I imagine, originated in Nova Scotia or Hamilton?—A. Well, you had this advantage, Mr. Laing, that your rate was frozen from 1942 to 1947 and could not be increased.

Q. This can be a very important thing for us again because at that time there was no such thing as a boat—you could not get a boat?—A. That is right.

Q. After the disaster that the Aluminum Company had there were no boats running?—A. That is right.

Q. Now, if that situation arises again, what is going to be the rate on the plate going into Vancouver? You have said, Mr. Knowles, that the amount of traffic Canadian National-wise is almost negligible and you made the statement the other day that there are only a handful of rates involved but that that handful of rates involves 80 per cent or 90 per cent of the tonnage in all the transcontinental rates. That is a matter of very serious concern to Vancouver, particularly if we got into trouble again and we had to build ships, because it would make the cost of shipbuilding that much higher and certainly in such a time of stress I do not think you could depend upon either a boat service or the American transcontinental rates.

The CHAIRMAN: Well, Mr. Laing, you will recall that the last time that emergency happened the British Columbia yards were awarded contracts to their full capacity—cost did not enter into it. Freight rates did not enter into it.

Mr. LAING: In 1940?

The CHAIRMAN: I refer to the war period.

Mr. LAING: Well, I would not say that.

The CHAIRMAN: Well, we found that.

Mr. LAING: I think that their cost per ship was surveyed very thoroughly.

The CHAIRMAN: There was a substantial rebate of profits from the west. You will also recall that there was no question of freight rates at that time.

Mr. LAING: Well, these ships cost \$800,000 and they were no cheaper anywhere else in Canada.

The CHAIRMAN: That is true and I found too that the refunds were very, very substantial. My recollection is it ran into \$40 million.

Mr. LAING: So in the meantime you suggest that we abandon our present—

The CHAIRMAN: I am not suggesting there be any abandonment at all. I am suggesting that you are not hurt.

Mr. LAING: That we are not hurt?

The CHAIRMAN: No.

Mr. LAING: Well, we would be hurt to the extent to which any increase in freight rates applies to us.

The WITNESS: Well, I suggest that with the $1\frac{1}{3}$ basis the railways are not likely to cancel the rates to the intermediate points.

By Mr. Laing:

Q. Well now, if that is the case let us put something in here that says that. Can we do that?—A. Well, I do not know whether you can guarantee by law that a railway shall always carry a rate from Montreal to Vancouver to meet a boat that may or may not be there.

Q. Well, then, let us remove something from here that might enable the railways to do that. That is the stand that we want to take.—A. Well, if you can find some solution I would be very glad to see it.

Q. Could you indicate what might be the increase in rates?—A. No, because I have not had occasion to test out what should be a normal commodity rate on iron and steel and canned goods and so forth to Vancouver.

Q. Mr. Knowles, at the request of the Board of Transport Commissioners a series of rate studies were made by the Canadian Pacific, I believe, and we had some indication of their proposed rates to bring equalization about in connection with the maritimes. Were any of those rates included by the Canadian Pacific Railway on these transcontinental rates in their rate structure?—A. Oh, yes, the rates to Vancouver were in there but they are simply paper rates. They will never be put into effect.

Q. They are in this thing?—A. Yes. I would not pay any attention to them; that is just a plan and I think the plan is going to be changed quite materially before it is ever put into effect.

Q. But you do not know at what page or what they indicate would be the new rates?

The CHAIRMAN: I do not think you heard the evidence. He said they were only paper rates and would never be put into effect.

Mr. LAING: Well now, there is a tremendous amount of money which has gone into this thing and if there is no intention of it ever being used why was all the work done? There is a tremendous and prodigious amount of work.

Mr. RILEY: There is a lot of wishing behind it, too.

Mr. LAING: You say that now but if we passed a bill here which enabled rates to be established by the railways without reference to parliament again or to this committee by an arbitrary establishment of rate control then you have lost your opportunity of speaking to this.

Mr. JOHNSTON: They do not have to come back to parliament anyway; the board does that.

By Mr. Laing:

Q. If there was an arbitrary establishment of rates even so—have you any idea of what this study cost?—A. I have not any idea.

Q. Would it be \$100,000?—A. Oh, no.

Q. It would not?—A. Nothing like that, no.

Q. Well, what was the aim of it then? What was the purpose of it?

Hon. Mr. CHEVRIER: I can tell you what the aim of it is. I have already stated what it is on two or three occasions in the House. The object of that was to answer the request of the Board of Transport Commissioners for a plan from the provinces or the railways having to do with equalization under the authority of P.C. 1487, and that plan was filed jointly by the two railways. That is a plan that can be opposed by any group, by any association, by any province, and I hope and trust, as I have already stated, that the various provinces who feel they are affected by that plan will submit alternative plans which will do away with it. I think in effect that is what Mr. Knowles has been saying.

By Mr. Laing:

Q. Mr. Knowles, what proportion of revenue is derived by the railways in your estimation under the schedule A rates of total revenues? Say in the case of the Canadian National Railways what would it be?—A. I could not even give a guess.

Q. It would be over half, would it not?—A. Oh, no. If you take schedule A as a certain type of class rates in eastern Canada, Mr. Evans has stated that at his calculation about 10 per cent of the total traffic is handled on class rates. Mr. Evans corrects me; it is 18.5 per cent; and now if two-thirds of that is in eastern Canada that is only 12.2 per cent of the total traffic handled on the class A rates.

Q. What proportion of railway revenue would be derived in the provinces of Ontario and Quebec?—A. I do not know.

Q. It would be over 50 per cent?—A. We do not keep our revenues by provinces.

Q. There has been some indication in evidence that you gave that in your opinion the competitive rates established in Ontario and Quebec were needlessly low, is that correct?—A. I do not think I said that.

Q. Well, there has been some indication to that effect, that rates had been established against water competition that were needlessly low?—A. There may be some that were needlessly low and some of them which were not or by which the railways got no business. I must say this, that about four or five years ago we checked the traffic that was moving for two months for the whole of Canada and we found that 50 per cent of the competitive rates in Ontario and Quebec were not being used, indicating either that they were not low enough or that the shipper had got a rate from the railway and then had gone to the trucks and got a lower rate.

Now, I have no doubt you can find a few competitive rates that are lower than they should be, but it is difficult to get at the information with regard to competitive rates. I think you can get a reasonable amount of information. That is why the royal commission suggested that a reasonable amount be put on paper and delivered to the board when the competitive rate was made.

Q. Would it be your thought that the railways would attempt to obtain more revenue in the provinces of Ontario and Quebec?—A. Yes, sir, I could say that. The provinces of Ontario and Quebec—now, I want to disabuse your minds that these schedule A rates are made to meet water competition. They are not. They were made on the American rate from Detroit to Montreal. That was the key rate in 1907 when the rate was 60 cents per 100 pounds from Windsor to Montreal first-class, and it was 58 cents from Detroit. The board very properly said, "We are not going to permit American shippers to use our rail lines at lower rates than the American." And so they reduced it to 58 cents. That is the basis for the rate. Today the rate from Detroit to Montreal is 99 cents per 100 pounds higher than from Windsor, so somebody knows they are going to lose that very low rate that they had on schedule A and I do not think there is going to be too much worry about it because they have had it for a great many years—a much lower rate than the original basis for that rate.

Q. So with the small increase in rates in the central provinces it would be your thought that the revenues of the railways which are lost by this 1½ provision will easily be taken up by this increase in the central provinces?—A. I would not say that, because the class rates themselves, I think, are fairly high and we have the new factor of truck competition in there since these rates were made in 1907, but I do think that many of the commodity rates are too low and could be increased and the traffic would not leave the rails.

Q. You think the central provinces are of the opinion that they are going to face an increase in rates?—A. Well, I do not know what the provinces will say—the governments of the provinces, if that is what you are saying, because they have never said anything either to the royal commission or anybody else about rates, but I am talking about the people who use the rates. They know they have lost the competition on rates from Detroit and Buffalo coming into Canada and they know sooner or later they have to have an increase in those rates.

Q. I would have thought if they thought they were going to face some increase they would be here?—A. Well, that is their business. I am just stating what the facts are, Mr. Laing. The rate from Detroit to Montreal is today probably 50 per cent higher than it is from Windsor, and at one time it was made the same by the board.

Q. Returning to these transeontinental rates, you would not care to give us any idea of how much increase we should expect on steel and steel products?—A. I cannot tell you at the moment, Mr. Laing, no. You may not pay any increase. If this $1\frac{1}{3}$ rule comes in you may not pay any increase at all, but if it is knocked out the railways are going to be faced with some sort of a demand that the rates be applied to the intermediate points, as Mr. Frawley for the province of Alberta demanded, or you are going to have the same situation where Alberta bitterly resents the fact that you are charging twice as much to Calgary and Edmonton as you are to Vancouver on the same lines. That is the thing the royal commission tried to cure if you will read its report, and I would not want to see it go right back to that situation again.

Q. Well, you are going to face a loss of considerable revenue in the western provinces as a result of the $1\frac{1}{3}$ provision?—A. I do not think so; we might lose some revenue.

Q. Well, Alberta thinks you are going to lose some?—A. Because the rates to the western provinces are already lower than they are to Vancouver, plus one-third in a great many cases, and with a very slight adjustment in rates the bulk of them can be brought under the $1\frac{1}{3}$ rule. It is only these four or five rates that I would call freak rates where you cut your rates 60 per cent to 70 per cent to Vancouver that you get into trouble at the intermediate points.

Q. And they will have to be corrected upwards? Is that the idea?—A. Well, I do not know, Mr. Laing. I do not think that the railways are going out to cancel even those low rates if this $1\frac{1}{3}$ rule is put in. If I am asked for my advice in connection with the matter I would just say, "Accept the $1\frac{1}{3}$ rule and leave the other rates alone and see what happens."

Q. We certainly hope you are asked for your advice.—A. Well, I retire on the 2nd of January, so my advice may not be available much longer.

The CHAIRMAN: We had better hurry up and finish our work, then.

The WITNESS: I think you had better.

By Mr. Laing:

Q. Extensions are quite prominent around here. We will have to see if that cannot be arranged.—A. Well, I am 65 on the 2nd of January, whether I look like it or not.

Q. You would not care to indicate what in your opinion might be the total increase—would it be 40 per cent on the present rates?—A. Increase?

Q. Yes.—A. I have just said I do not think there will be any increase if you put in the $1\frac{1}{3}$ rule. That is the very thing that the royal commission said, "If you give a reasonable premium at the intermediate points probably the railways won't do anything about the Vancouver rates."

Mr. JOHNSTON: Are you disappointed in that?

Mr. LAING: No, but I cannot get through my head how you are going to lose revenue and not increase the rates.

By Mr. Laing:

Q. I asked you if that handful of rates you spoke about might not involve a large proportion of the movement that goes through under the transeontinental rates and you said yes. Now, under the $1\frac{1}{3}$ rule, unless I am wrong, you are going to earn less revenue in the western provinces. How is that

revenue going to be taken up? It was suggested that it be taken up by raising the transcontinental rates to provide, therefore $\frac{1}{3}$ higher?—A. Well, I have checked out one rate, for example, and I think it was something like \$3.56 per 100. By increasing it to \$3.60, a 4-cent increase to Vancouver, it would clear on intermediate points. I know they already clear it at Jasper park and Banff and Kamloops, and the traffic west of there is negligible. If it clears to the intermediate points up to there I do not see that you have got anything to worry about.

Mr. LAING: May I, Mr. Chairman, ask the witness something about fruit rates out of Okanagan at this point?

By Mr. Laing:

Q. What is the present rate under which fruit moves out of the Okanagan?—

A. I do not know the figure, Mr. Laing, but—

Q. Is it a commodity rate?—A. Oh, it is a commodity rate, yes. It has just been decently reduced, I understand, to the same as from the State of Washington to similar points in the east.

Q. Therefore, it is an agreed charge, is it?—A. No, it is not an agreed rate; it is a rate that the railways make in order that the Okanagan shippers can sell their apples in Toronto and Montreal at the same rate as Wenatchee in the Columbia valley.

Q. Rates were reduced?—A. That is correct, and it is for the same simple reason I gave on lumber. The Interstate Commerce Commission did not allow the full percentage increases on apples. They made a maximum on it so Canadian lines were forced into the same thing eventually.

Q. We have had statements made here on apples that the rate per 100 pounds seems to be extremely high. Last year our fruit industry out there shipped a car of fruit to Saint John's, Newfoundland, and the freight was \$1,762 on that one car for 800 bushels. The rates there are extremely high. Would you indicate why they are so high?—A. Well, if you take into account the fact that that is approximately 4,500 miles I do not think that is a high rate. Divide that into \$1,700 and it is something around 35 cents or 36 cents a car mile, which is just the average on all freight.

Q. We thought it was a tribute to our fruit.—A. Well, I have bought your fruit in Halifax in direct competition with Annapolis valley. If you can do that I do not think there is an awful lot wrong with the freight rates.

Q. I bet you bought them a second time, too?—A. Yes, I did.

Q. However, the freight rates on fruit are high. Are they high because normally the movement is by reefer car?—A. Well, partly that and partly because it is a perishable product. You have got to take into account the loss value of a carload of apples if you lose them—get them frozen or heated up too much and they wilt, and you get a tremendous claim for them and it takes a great many carloads to make up the loss on them.

Q. There is a great deal of fruit from that area moves by cattle car?—

A. That is in summer time and then to the prairies where you have a fairly short run and a breeze runs through the car. You can handle them that way then but I would not ship to Montreal and Toronto in cattle cars.

Q. That industry with us is very, very important and I think they have always felt that an undue burden was put upon them by freight rates.—A. Well, I made those fruit rates year after year and we had people from the Department of Agriculture down to Montreal to see them, and if it was not that the apples were too small and could not be sold they were too large and could not be sold or the crop was too large or too small, and on that account they got reductions. It was only when freight rates went up and business improved and the railways felt that the apple industry was on its feet that the railways restored the apple rate to normal.

Q. The rates on fruit are exceptionally high. I cannot understand the point of claims in relation to other articles but they seem exceptionally high; they always have been?—A. Well, there will be an opportunity for your rate experts to go before the board and argue that, and make statements in the general freight rate investigation. I think you will get some relief under this \$7 million subsidy. It will apply to all rates from east to west and I think under equalization you will get some reduced rates in the west versus the east, but I cannot see anything of reasonable reduction from the west to the east.

Q. It is a very, very important industry to us and our sales are of the nature of \$25 million per year and we have got to send 90 per cent or 95 per cent to markets out of the province.—A. I agree with you. I am not underestimating the importance of the industry at all. I would like to see it flourish.

Mr. ASHBOURNE: I was wondering if Mr. Laing knew the rate on apples to England?

Mr. LAING: I do not want to give that with any thought that I am speaking accurately, but I think it was \$2.60 per box.

Mr. ASHBOURNE: And as far as Newfoundland is concerned, how many boxes were in that car, do you know?

Mr. LAING: 800.

Mr. GREEN: May I ask Mr. Knowles one more question?

By Mr. Green:

Q. Mr. Knowles, this proposal that the transcontinental rates should not be over $1\frac{1}{2}$ to intermediate territory covers practically the whole of the prairie provinces, doesn't it?—A. It all depends on the rate, Mr. Green. Some of the rates will not cover more than a few miles east of Vancouver.

Q. Well, in the intermediate territory it would cover not only the line over which the traffic moves to Vancouver but hundreds of miles on either side of that line?—A. It takes in the whole territory. That was the recommendation of the royal commission.

Q. Now, in your answers to Mr. Laing you have been stressing that this freight would run from say, Saskatoon and Edmonton and why should they pay twice as much as people at Vancouver?—A. Beg pardon?

Q. Why should they pay, for example, twice as much as is paid in Vancouver? You have spoken along that line. Now, what is the justification for including in this $1\frac{1}{2}$ provision territory hundreds of miles on either side of the line along which this through traffic is moving?—A. Well, I consider it was a territorial complaint rather than an intermediate point complaint. If you reduce the rates on the main line to intermediate points, as in the case of the pipe coming down to \$1.53 and five miles north of the main line you have got a rate of \$2.50, you would have everybody down to the Transport Board complaining about it.

Q. You say "I consider." You were one man who made this suggestion?—A. No, I was not the one who made this suggestion.

Q. Why should the freight, say, from Edmonton to Waterways get the same rate as freight to Edmonton?—A. Well, I will answer you by stating, why should the Toronto-Sudbury-Windsor-Montreal triangle get the same rate to Waterway?

Q. You are really bringing in another principle; you are trying to set up on the prairies a huge block or triangle. You are not worried so much about this through traffic; you are trying to set up on the prairies a large block?—A. It is only a large block in regard to these freak rates I am talking about.

Q. It will be the largest block in Canada, will it not?—A. It may be in regard to pipe and a few things like that.

Q. Well, why should this freight which is going to Waterways which is nearly 500 miles north of Edmonton, why should that freight not have to pay anything for going from Edmonton to Waterways? On what ground are you stating that?—A. Well, these complaints, Mr. Green, were all territorial and made by the provincial governments. I do not see that there is any sense in settling one little area in a big territorial complaint that covers the whole of Alberta or Saskatchewan.

Q. You are against making this $1\frac{1}{2}$ rule state that it applies to the land over which the through traffic moves and perhaps, say, 50 miles on either side?—A. Normally that would be the way of doing it under the Railway Act, Mr. Green, to apply it strictly to the intermediate points, but these were territorial complaints covering large territories and with the new discriminations which would arise north and south of the main line I think that the idea of applying it in a blanket manner to the whole of Saskatchewan and Alberta and even Manitoba, if necessary, is a pretty good one because you get rid of this disunity between the provinces.

Q. So that your policy of this $1\frac{1}{2}$ applying to the whole huge block of the prairies was designed to get rid of protests from the provinces?—A. Only where the rate comes off east of Edmonton into the prairies.

Q. Then, Mr. Evans was quite right in the chart he filed with the committee which showed that if the Canadian Pacific Railway is to retain these transcontinental rates, that is, if the Canadian Pacific is to try to retain these transcontinental figures then they are exposing to a reduction by reason of the $1\frac{1}{2}$ rule business on the prairie which is worth about \$15,500,000 as against \$1,500,000 covered by the transcontinental rates to Vancouver?—A. Versus \$15,500,000, you say?

Q. Mr. Evans stated that the business which was covered by the transcontinental rates to British Columbia was only \$1,500,000?—A. Yes.

Q. And he went on to say that by reason of this $1\frac{1}{2}$ provision being so widespread and affecting the whole of the prairies that it endangered the rates on \$15,500,000 worth of freight.—A. Well then, I think if you read Mr. Evans' remarks he did not say anything of the sort. He qualified that by saying he did not know what traffic would be touched by intermediate points.

Q. But he stated that \$15,500,000 worth of freight business on the prairies was exposed to a reduction in order to protect \$1,500,000?—A. Well, that statement needs examination, because it contains all the traffic to Winnipeg and I would say that 95 per cent of the rates in the transcontinental tariff will clear not only Winnipeg but points west.

Q. And he urged in conclusion of his submission that it would be very doubtful whether the railways would be justified in retaining transcontinental rates at all?—A. Well, that is Mr. Evans' opinion. You have heard Mr. O'Donnell's opinion for the Canadian National—they do not think they are going to be hurt and I know that the Canadian National are checking up figures to determine whether they are going to be hurt or not and I do not think Mr. O'Donnell would make that statement unless he was satisfied it was so.

Q. Your experience has all been with the Canadian National?—A. I spent seven years with the Canadian Pacific too, making rates.

Q. Now, you say there are only four or five commodities which cause trouble?—A. That is right, and I would not confine it to four or five.

Q. What is the maximum number of commodities which are causing this trouble on the prairies—not on the whole of the prairies but in Alberta?—A. I do not suppose there are more than a dozen.

Q. Not more than a dozen?—A. I do not think so.

Q. Now, what would be your objection to giving the board the power or the discretion to consider whether rates to intermediate points not transcontinental were unreasonable or not, rather than setting up an arbitrary rule of $1\frac{1}{2}$ to cover all of the transcontinental rates—what would be your objection to that?—A. I think you would be right back into the condition that the American lines are in because they have got that rule over there and the net result of it has been to apply the transcontinental rate to all the intermediate points, and as a result I am quite sure the American lines have in some cases held up their rates to Seattle and to Portland so that they would not be applied to the intermediate points, and I am quite sure that if you have that sort of a rule put into your tariffs here in your legislation that you are more likely to lose the transcontinental rates than you are under this $1\frac{1}{2}$ rule.

Q. You say there are only at the very most twenty items that are causing this discontent on the prairies?—A. That is my guess, Mr. Green.

Q. Now, we have a section here, section 331, which deals with competitive tariffs?—A. That is right.

Q. Why would it not be possible to add a subsection to that section which would give the board the power to deal with rates to intermediate points which are unfairly high?—A. You have already got that in section 314. You do not need anything more. It says that you shall apply the rate to the intermediate point unless the board considers the rates are competitive.

Q. Is section 314—and I do not pretend to be an expert—does not that deal with rates which are discriminating? Has it not been decided that these competitive rates are discriminatory?—A. Well, it is a discrimination clause, but it says, I think, in subsection 6 that you cannot apply a rate to a further distant point lower than to the intermediate points on the same line of transit unless the rate to the further distant point is competitive. Now, that is what the I.C.C. Act says, and yet they have all this trouble over there of applying the transcontinental rates to intermediate points.

Q. We know of that trouble; we are forewarned of it, and do you not think it might be possible for our legal authorities in the department to work out an amendment which would meet the situation here in Canada? You see, all of the competitive rates under the Railway Act are covered by this section 331 except for this $1\frac{1}{2}$ rule which is under 332B and which British Columbia, I think quite rightly, is extremely worried about. Why not have some sort of provision under 331 which enables the board to deal with unfair rates to Alberta?

Hon. Mr. CHEVRIER: May I read 314(5) here, which deals with the very situation you are talking about:

The board shall not approve or allow any toll, which for the like description of goods or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line or route is greater for a shorter than for a longer distance, within which such shorter distance is included unless the board is satisfied that owing to competition, it is expedient to allow such toll.

Now, that is in 314.

By Mr. Green:

Q. Well, the exception there is competitive rates and now what I am asking Mr. Knowles and what I am asking the minister is whether there could not be some amendment made to the new section 331 which would enable the board if it thinks that those rates are unfair to Edmonton to deal with them, even though they are competitive rates? Now, in essence that is my suggestion to Mr. Knowles.—A. Well, we have always had this 314 in the Act, Mr. Green. The board has dealt with hundreds of complaints about the rates to Alberta

and Saskatchewan compared to Vancouver and it comes right back to the fact that we cannot do anything about it because the Railway Act says you can have a competitive rate at Vancouver and you do not have to do anything about the intermediate points.

Now, the board has prescribed all these rates to the intermediate points. They are considered reasonable and yet you have Alberta complaining, "We pay \$2.88 on canned goods and Vancouver \$1.40."

Q. Then you say that there can be no amendment written into this section 331 which would meet the situation which was brought about by only a maximum of twenty commodities?—A. Well, I do not know; the lawyers might be able to figure something out, Mr. Green, but I do not know whether you can write an amendment to that section or not without getting into conflict with section 314. If you tried to amend the bill now by adding another tag onto it with regard to competitive rates you would be in conflict with section 314. It might be done by one of the lawyers.

Q. The reason I suggest that, Mr. Knowles, is this, that in fact this whole problem merely calls for some change in the law governing competitive rates, is not that the situation?—A. That is right.

Q. And yet, to meet that situation you bring in an entirely new principle under 332B which is contrary to the very equalization provisions which are the main basis of this new transportation policy?—A. It is not a new principle, Mr. Green. If you read my evidence you would find that the Interstate Commerce Commission used it for quite a number of years.

Q. But in Canada it is a new principle entirely?—A. Yes, it is a new principle to cure a very troublesome complaint.

Q. And today you have admitted that this setting up of a huge block which will have a flat rate tariff on these twenty items is done merely to stop complaining by the provinces?

The CHAIRMAN: Only a flat rate, Mr. Green—only a flat rate when a certain point is reached.

Mr. GREEN: But on these twenty-odd items.

The CHAIRMAN: Only a flat rate, you see, where the rate exceeds the $1\frac{1}{2}$, but up to the point where it exceeds the $1\frac{1}{2}$ there is no flat rate at all.

Mr. GREEN: Then there is no need for an amendment to the Act.

The CHAIRMAN: So, it is only in that one small segment that it is a flat rate.

Mr. GREEN: But 332B is brought in merely to deal with twenty items.

By Mr. Green:

Q. Will you give me a list of these twenty-odd items? I would like to know what they are.—A. I cannot at the moment, Mr. Green, they would have to be checked out. The Vancouver rate would have to be checked out with all the rates to the intermediate points to determine where the breakdown comes.

Q. Well, how long would it take you to get us that information, because I think it is very material?—A. I would say it would take two or three days to check out that tariff.

Q. Well, can't you get it by consulting with the British Columbia representatives and the Alberta representatives, the people with the railways in a shorter time than that? It is pretty well agreed what items are causing this trouble, as I understand it.

The CHAIRMAN: Yes, but on the other hand, Mr. Green, the Canadian Pacific Railway, when I asked them as to whether they knew the annual dollar loss they had not taken the trouble to make this computation. Now, does not that lead you to believe that they do not consider it is a very important item?

If it was a very important item I think this committee would have been supplied with a statement, a breakdown showing what they were going to lose, and I asked the question in the first instance and I got a reply simply giving the gross volume of business and no knowledge of the loss. I asked Mr. Evans after he had tabled his answer at the end if he could give us an estimate of the anticipated loss and he said no. Now, if the company was interested surely they would have made that up.

Mr. F. C. S. EVANS, K.C. (Vice President and General Counsel of the Canadian Pacific Railway Company): I do not know whether I should reply to the chairman on that because I hope the committee is not going to assume that because we did not have the time to spend the weeks and weeks which it would take to make this analysis that we do not think it is serious. I can tell the committee now that I would far rather have the intermediate point rule in the United States than this $1\frac{1}{2}$ rule.

Hon. Mr. CHEVRIER: Well, Mr. Evans, I think you have told the committee far too much. You have had two or three opportunities of giving your evidence and if you are going to get up and give evidence whenever you feel like it I am going to object in the strongest possible manner.

Mr. EVANS: I am sorry.

Mr. BROOKS: I would like to ask if this is a parliamentary committee or whether it is a minister's committee. After all, I think everyone has the opportunity to give any evidence they like.

Hon. Mr. CHEVRIER: The point I am making is this, that there are witnesses here available to the committee. Mr. Evans has given evidence on at least three occasions and I think he has had a fair opportunity to put his case before the committee, and I say that and I object strenuously that he should be getting up every opportunity he has to say this, that or the other thing. I am in the hands of the committee and I will abide by the ruling of the committee.

Mr. BROOKS: After all, his name was brought into this and he has a right to defend himself.

Hon. Mr. CHEVRIER: I do not think it is a fair thing for the Canadian Pacific Railway Company to come here and take the attitude which they have.

Mr. JOHNSTON: I agree with the minister too.

Mr. GREEN: Oh, you would.

The CHAIRMAN: Well, I think I am perhaps largely to blame myself; I may have allowed this inquiry to get a little off the rails by being so free and easy with interjections, but I will do my best—

Mr. GREEN: Mr. Chairman, on this particular point you and I between us were trying to get out these figures and that is the only reason that Mr. Evans was brought into the thing at all. It was not a case of his trying to get up and give evidence and the minister was quite unfair when he lost his temper.

The CHAIRMAN: Well, after all, Mr. Green, you are an experienced parliamentarian and you know if these inquiries are to be conducted properly we must hear people one at a time and that there should not be too many interruptions.

Mr. JOHNSTON: I drew this to your attention the other day.

The CHAIRMAN: I accept the spanking which I think is perhaps deserved.

Mr. GREEN: The minister has no more rights than any of the other members of the committee.

The CHAIRMAN: That is quite true, but I am in part to blame for not keeping the proceedings a little more orderly.

By Mr. Green:

Q. Mr. Knowles, could you try to find out for us which are the main items which are causing all this trouble?—A. I will try to do that, Mr. Green, within a reasonable time.

Q. I think I have understood that there would be more like twelve commodities than twenty, would there not?—A. I am glad it is getting down to a lower number than the indication was in the first place.

Q. In fact you said four or five a few minutes ago?—A. Well, I say those are freak rates that have caused trouble. When you get a rate away below \$2 to Vancouver you are going to get trouble at the intermediate points no matter what you do. There are a large number of rates that clear under that tariff and I do not think there are more, as you say, than ten or twelve where the $1\frac{1}{2}$ rule is going to reduce the rate to intermediate points.

Q. The whole problem resolves itself, then, to ten or twelve commodities?—A. I think so. I think we can perhaps find some figures for you or get them for you, Mr. Green, that probably would satisfy you.

Q. If you could try to get them.—A. I will do so.

By Mr. Ashbourne:

Q. I think, according to the evidence a few days ago, it was mentioned that there was a reduction downward on the rate on lumber on account of the competition from Seattle?—A. That is correct.

Q. Can you tell us whether there has been any change in the Seattle rate recently or has it been long established?—A. The Seattle rate has been changed a number of times recently due to the percentage increases in the United States. Their rates are in a continual state of turmoil because they have not got enough money to run the railroads and so keep asking for further increases. They were dissatisfied with the last 9 per cent, and they are asking for the balance up to 15 per cent. My impression is that these rates have been changed ten or twelve times since 1948, and I think it was an accumulation of three or four of these changes in maximum rates put on by the Interstate Commerce Commission that caused the Seattle rate to get quite a little below the Vancouver rate. The Canadian railways when it was brought to their attention reduced the rate.

By Mr. Green:

Q. Those all are commodity rates, are they?—A. Yes.

By Mr. Ashbourne:

Q. What I would like to know if it is a fair question is, if this bill goes through as it is at the present time will there be any way of preventing the impact of these competitive rates from having any effect upon the board in making the new rates? Will there be anything to debar the board from taking into cognizance these new competitive rates?—A. Competitive rates are permitted under the Railway Act. There are sections that permit them to be published. The board has control of them at all times and I cannot see that a general revision in their rates is going to knock a lot of those commodity rates out if they are justified. The competitive sections are not being taken out. All this bill does is to ask that when a freight traffic man with a normal reasonable basis of rates departs from that that he tell the board why he is doing it and tell them the reason for it. That is all this bill does.

By Mr. Green:

Q. Competitive rates are not subject to the board at all?—A. Oh, yes they are; certainly they are.

Q. Well, once a competitive rate is published or put in...—A. It can be taken out by the board, oh, yes. There is no reason to maintain it after the competition disappears. You are discriminating then against somebody else.

Mr. ASHBOURNE: Mr. Chairman, there is another point I would like to have a little information on. I would like to have a breakdown by provinces of the number of miles of railway operated by the Canadian National and also the Canadian Pacific.

The CHAIRMAN: Yes, that can be obtained, I understand.

Mr. ARGUE: Mr. Chairman, I have one or two short questions I should like to ask the witness. I think he has already answered this, but I would like an answer again.

By Mr. Argue:

Q. If the committee adopted the suggestion of Mr. Green and removed the $1\frac{1}{3}$ provision and left it to the board to decide whether intermediate point rates are reasonable or unreasonable, is it your opinion that the resulting benefits of the present $1\frac{1}{3}$ clause would largely be taken away from people residing in Alberta and western Saskatchewan?—A. The answer is yes.

Q. In other words, we need the $1\frac{1}{3}$ provision as it is written into the bill in order to benefit the people of Alberta and western Saskatchewan under the transcontinental rates?—A. That is correct. If you took it out you would not know where to start from, with all your complaints from Saskatchewan and Alberta.

Q. And the witness has already stated that in his opinion the retention of the present provision in the bill would not unduly affect the people of British Columbia, that there are other methods of competing and there would not be any drastic increase in a large number of items?—A. That is my opinion, for what it is worth.

Q. I think it is a good opinion. The witness has already stated to the committee that there would not be any serious reduction in revenue for the railways because of the $1\frac{1}{3}$ provision—a slight reduction but not too great?—A. I do not think so. They might lose a few thousand dollars or even \$100,000 or \$200,000 but we are losing that every day on competitive rates we make and we make it up on something else. We increase a rate that is obsolete and where the competition is concerned we decrease that again. We have made a very large increase on rates on grain and flour from the head of the lakes two or three years ago because the rate had gone down from the west and in 1947 from Fort William to Montreal to as low as 17 cents. That was brought up to 25 cents and there it stuck and I found that the Canada Steamship Lines had a cost of 35 cents a hundred to get a bag of flour from the head of the lakes to Montreal so I suggested we jack up this 25 cent rate and put it back to the normal rate the board had authorized in 1921 and that was done. We get a lot of cases like that to offset some of the other things we have to lose on.

Q. It has been suggested by the two members of the committee from British Columbia that the one and one-third provision might hurt British Columbia. I am wondering if there are any intermediate points within the province of British Columbia that would benefit from the one and one-third provision?—A. Yes sir, there are.

Q. So that when anyone says British Columbia will be hurt it is people within the Vancouver area, within the western region of the province that might suffer by the bill to some extent but other people spread out all over the province of British Columbia could benefit?—A. Nelson and Kelowna and places like that are going to get a benefit.

By Mr. Riley:

Q. The bulk of the traffic comes from the Vancouver area, though, does it not?—A. Well, there is a lot of traffic goes to intermediate points too but, as I say, there are only a few rates where you get this difficulty where the situation would be affected.

Mr. ARGUE: I would suggest this, Mr. Chairman, that British Columbia has no very great complaint in this matter, even if they are correct that it will hurt some people in British Columbia if it will help others.

Mr. GREEN: On this particular point I do not think my learned friend knows anything about British Columbia.

Mr. ARGUE: That puts two of us in the same boat.

By Mr. Green:

Q. If the transcontinental rate were wiped out that would certainly affect the interior of British Columbia the same as it would the rest—it would certainly be detrimental to them, would it not?—A. It would leave them where they are today, Mr. Green, except in the case where you get a very low rate to the coast and you can ship back.

Q. Well, that is what makes it beneficial to the interior of the province. When you say that the interior of the province would benefit by this one and one-third rule I do not see how you reach that conclusion?—A. It all depends on the size of the rate, Mr. Green.

Q. Well, if the transcontinental rate on a commodity is wiped out then certainly the interior of British Columbia will lose too, would it not?—A. Well, they could always bring stuff in by boat and truck it back into the interior.

By Mr. Johnston:

Q. Just a short question. Mr. Green seems to be quite worried that the rate to Edmonton would be the same as to Waterways. Now, he made quite a point of that. How much freight is it that goes to Waterways? Would it not be small indeed?—A. Relatively small. That territory feeds the whole north. When you get up to Waterways there is just nothing beyond that except water transportation and there is quite a small population in there and they have to get their supplies in but compared with the amount of traffic that goes into Edmonton it is very, very small.

Q. But it might result in developing that north country which would be of benefit to all of Canada and British Columbia as well? Now, the same rates would apply for them having the same rate to Waterways as to Edmonton as applies up to now for freight rates from Windsor to Sudbury?—A. Yes, exactly.

Q. Now, when you consider the amount of traffic between these points it is almost millions of dollars of traffic which could be compared to a few dollars of traffic to Edmonton. Now if we are going to have a government policy as the government hopes to the effect that all of Canada would have that one and one-third rule are you not of the opinion that it will not affect British Columbia hardly at all and if it does affect British Columbia it will only be a small area along the coast because it will be of material assistance to the bulk of British Columbia? I cannot see where Mr. Green has any fear at all. You have expressed your opinion—and correct me if you think I am wrong—that there is no possibility of the transcontinental rates being done away with because of the application of this one and one-third rule?—A. That is my opinion that the transcontinental tariffs will not be cancelled; we will always have transcontinental tariffs and the rates will be adjusted up and down to meet the competition at the coast.

Q. But there is no material fear for British Columbia?—A. Well, I can understand them worrying about it but I think their fears are pretty well unfounded.

Q. Would it not be true that their fears are that they might lose some of the advantages which the present rates give them over those rates which Alberta and Saskatchewan have had to pay up to now?—A. That is what they are worrying about, yes.

Mr. GREEN: What about your Crow's Nest rates?

The CHAIRMAN: Well, gentlemen, shall we excuse Mr. Knowles?

Mr. GREEN: In the cross-examination by Mr. Johnston there is one point brought out having to do with the Windsor-Sudbury-Montreal triangle. I would like to ask Mr. Knowles a question about that.

Q. I do not know that I have the right cities there but you know the triangle I mean. Is it not the intention that the equalization provisions of this bill will do away with that triangle?—A. It all depends on the size of the mileage group, Mr. Green, but I anticipate that that will be broken up. Mr. Jefferson before the royal commission suggested that everything north of Parry Sound should be taken out of that group and even suggested that we take Sault Ste. Marie out of the group.

Q. One of the main purposes of this bill is to break up this Windsor-Montreal-Sudbury triangle, isn't it?—A. That is one of the main objects of the bill. We are doing nothing they have not done in the United States; they have broken up their whole groups into 25 mile groups over there.

The CHAIRMAN: Thank you very much, Mr. Knowles.

Hon. Mr. CHEVRIER: Mr. Chairman, may I submit to the committee all of the amendments that I propose to make to the various sections.

The first amendment is the one proposed to the committee through Mr. Lafontaine yesterday. I sought the advice of my colleagues and they say that if the committee feel there should be an increase then they are prepared to accept it and it will mean a point of constitutional law which will have to be given consideration to, namely, the introduction of a new resolution.

The next amendment I propose is to 329(b). It is a very inconsequential amendment, I think. Perhaps it is technical, too.

The section would now read:

Class rate tariffs may, in addition, specify class rates between specified points on the railway and when such rates are established in groups the rates between the groups may be higher or lower than the rates specified under paragraph (a).

Mr. GILLIS: What is the effect of that, Mr. Minister?

Hon. Mr. CHEVRIER: I am afraid I will have to ask someone to explain it. Would you care to explain it, Mr. Matthews?

Mr. MATTHEWS: Mr. Chairman, the intention of this paragraph (b) is to provide firstly for specific rates between specified points. That is to permit a railway to file tariffs without specifying the mileage basis on it when worked out on the same basis, that is, the tariff between specified points would be the same as the tariff worked out on a mileage basis.

That is the first part of paragraph (b), but the second part with which the amendment deals introduces these words "and when such rates are established in groups the rates between the groups may be higher or lower than the rates specified under paragraph (a)".

Now, that is to take care of the situation where they establish a tariff between large groups and I think Mr. Shepard raised the point in his evidence that the

word "higher" should be taken out but in case of tariffs established between groups there frequently is an average between the points in the groups and it is to take care of where ordinarily on a mileage basis the tariff might be higher or lower or a tariff between the groups may be either higher or lower. I do not know whether I make that clear or not. If I do not I am going to ask Mr. Knowles because it is very technical and he knows more about it than I do.

The CHAIRMAN: It is a point to point rate, is it?

Mr. MATTHEWS: It is a rate between groups. For instance, if you had Montreal and Hawkesbury and Ottawa it might be a group known as one group and the rate between that group and Pembroke might be the same rate, whereas on a mileage basis the rate between Ottawa and Pembroke would be different, but for rate-making purposes they are all averaged together.

Mr. BROOKS: Would it have any effect on the arbitraries from Saint John to Montreal?

Mr. MATTHEWS: I would not know anything about that.

Mr. BROOKS: Would it have any effect on the arbitraries between Halifax and Montreal?

Mr. L. J. KNOWLES: If it is possible to change the Maritime Freight Rates Act on the rates to Montreal—and as I say that is something for the courts to determine—if they could do that and you want to put in an average to, say, Riviere du Loup you have got perhaps 20 or 30 stations in the Riviere du Loup group, if you went by mileage you would break that up into individual rates. Let us say you want to make that a 400-mile group containing stations within 100 miles—

The CHAIRMAN: Would it not be well to table all these amendments and then deal with them one at a time as we come to them?

Hon. Mr. CHEVRIER: The second is an amendment proposed by the Canadian Pacific Railway to section 330(2). I have already indicated that I would accept it. This would read as follows:

(2) Where a freight tariff is filed and notice of issue is given in accordance with this Act and Regulations, Orders and Directions of the Board, it shall, unless and until it is disallowed, suspended, or postponed by the Board, be conclusively deemed to be just and reasonable and shall take effect on the date stated in the tariff on which it is intended to take effect, and shall supersede any preceding tariff, or any portion thereof, in so far as it reduces or advances the tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the Board or is superseded by a new tariff, charge the tolls as specified therein.

There is not a great deal of difference between the section as it is there and the proposed amendment of the Canadian Pacific Railway, but the C.P.R. thought that it will assist them in the question of reparations and we have no objection.

The next amendment is to 332, also at the request of the Canadian Pacific Railway, which I indicated I thought was a fair interpretation of the intentions of the commission. It is to include the words "other than a competitive rate," after the word "Act." So that 332 would now read:

Where an objection is filed with the Board to any freight tariff that advances a rate previously authorized to be charged under this Act, other than a competitive rate, the burden of proof justifying the proposed advance shall be upon the company filing the tariff.

The next amendment is to section 332A, and it is to preserve the position of the Maritime Freight Rates Act. It is to re-letter subsection (f) of subsection 4 of 332A so that subsection 4 would now read as follows:

(4) Subsections one, two and three are subject to the proviso to subsection five of section three hundred and twenty-five of this Act and to the Maritime Freight Rates Act, and do not apply in respect of

(f) rates applicable to movements of freight traffic upon or over all or any of the lines of railway collectively designated as the 'eastern lines' in the Maritime Freight Rates Act as amended by The Statute Law Amendment (Newfoundland) Act.

That amendment, I may say, has been discussed with counsel for the maritime provinces and I think I am expressing their opinion when I say that this amendment is agreeable to them so that that means a re-lettering of (f) and (g); and (g) would then be:

(g) any other case where the Board considers that an exception should be made from the operation of this section.

Now then, the next amendment is to clause 18 of the bill, and clause 18 is amended by adding subsection 5 which would read as follows:

The amounts paid under subsection one shall be applied to a reduction in the relative level of rates applying on freight traffic moving between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the board may allow or direct.

Now, I have discussed this with some of the counsel and counsel of the Department of Transport have also discussed it with counsel for the western provinces and I understand from them that this amendment is satisfactory to them.

Mr. LAING: Does that mean it should apply to all rates?

Hon. Mr. CHEVRIER: All east-west rates, and the board would have to determine the manner in which and the trackage upon which the reduction of the rates should be.

Mr. LAING: Equally and fairly?

Hon. Mr. CHEVRIER: It would be up to the board so to determine.

Mr. LAING: Including transcontinental?

Hon. Mr. CHEVRIER: Well, it is up to the board to determine. It is on east-west rates and if the board determines that the transcontinental rate is an east-west rate then they would reflect the subsidy accordingly.

The CHAIRMAN: Now, in order that the delegation from the maritimes will not be kept waiting unduly, would the committee be willing to deal with the amendment to 332A, subsection (4) (f)?

Mr. BROOKS: Are there copies of that amendment?

Hon. Mr. CHEVRIER: Well, unfortunately there are not.

The CHAIRMAN: I will be pleased to read it. I will read that very slowly. This will be substituted as a new (f) and the existing (f) will be moved forward and will remain as (g). Have you all got the proper places in your notes? The new section is:

(f) rates applicable to movements of freight traffic upon or over all or any of the lines of railway collectively designated as the 'Eastern Lines' in the Maritime Freight Rates Act as amended The Statute Law Amendment (Newfoundland) Act.

Now, have all members of the committee the amendment before them and are there any questions?

Mr. BROOKS: Would this mean that equalization of freight rates would begin at Levis in Quebec?

Hon. Mr. CHEVRIER: I think in effect it would.

Mr. BROOKS: That would mean then that the maritime provinces would be excluded and Newfoundland and that part of Quebec excluded from equalization?

Hon. Mr. CHEVRIER: I think so.

Mr. BROOKS: And the Maritime Freight Rates Act as we have it today would remain as it is?

Hon. Mr. CHEVRIER: Unchanged.

Mr. NOWLAN: That would apply, Mr. Minister, to the other lines which are not specifically mentioned in the Act?

Hon. Mr. CHEVRIER: Yes, they are not mentioned in this Act but they are mentioned in the Maritime Freight Rates Act and would, therefore, be included.

Mr. LAING: Does this have the effect of binding the Maritime Freight Rates Act?

Hon. Mr. CHEVRIER: Well, it has the effect of maintaining the preference which the Maritime Freight Rates Act always gave. I maintained in the House and I still maintain that this amendment is not necessary. I think the maritime position is preserved but, however, the maritime counsel here think it would be preferable to put in an amendment of this kind and the other provinces in the west have raised no objection. In fact, they have agreed with the position which has been taken by myself that their position is preserved, but if the maritime provinces think they want this additional protection we have no objection to it, but this is simply to maintain the preference of the people of the maritime provinces which they now enjoy under the Maritime Freight Rates Act.

Mr. LAING: It binds the preference then but not necessarily the freight rates?

Hon. Mr. CHEVRIER: That is correct.

Mr. ASHBOURNE: That covers the water route from the mainland to Newfoundland as well?

Hon. Mr. CHEVRIER: Yes, it does.

Mr. GILLIS: May we have a word from Mr. Smith or Mr. Matheson as to whether this meets their wishes?

The CHAIRMAN: The committee would like a word from you as to whether you approve of the proposed amendment.

Mr. F. E. SMITH, K.C., Counsel for Province of Nova Scotia: I do.

Mr. BYRNE: Mr. Chairman, the counsel from British Columbia having regard to the fact that little consideration was given to their submission, are the counsel from British Columbia fully in agreement with the statements by the minister that all the provinces were in agreement?

Hon. Mr. CHEVRIER: Well, I asked counsel a question as to whether he took the position of the other provinces and I understood him to say that he had no objection to this.

Mr. BROOKS: That is correct.

The CHAIRMAN: All those in favour of the amendment please signify. Opposed?

Carried.

Now, there is one other section which perhaps we will have time to deal with (we have 20 minutes) and that is in regard to the amendment indicating the beneficiaries of the subsidy. Shall I read that now and would you care to take it down?

Mr. ARGUE: Mr. Chairman, we are having all these amendments thrown at us and there are not copies available for the members of the committee. I wonder if we could not deal with this amendment Friday morning. I am not objecting to the amendment but I would like to have an opportunity of looking at it.

Hon. Mr. CHEVRIER: May I say now I do not want to hurry the committee. Naturally I am anxious to get on because I have a lot of legislation at this session as the committee knows, but I did have quite a conversation with counsel for Saskatchewan on this section and with Mr. Shepard of Manitoba and they indicated their satisfaction with this kind of an amendment. I did not see other counsel but the department counsel did and my understanding is that this is satisfactory to them.

Now, if it is I do not see what point there is in further postponing the discussion on this because I do not think it is a section which would be debated as the others which are contentious would be.

Mr. ARGUE: Mr. Chairman, I am not raising any objection at all to the amendment, but even if the minister has consulted with the counsel for Saskatchewan and Manitoba I am a member of this committee and I would like to have some knowledge myself of any amendment I am approving and I cannot see why it would delay the passage of this bill if we stood it over until Friday.

The CHAIRMAN: I have found the committee very co-operative and I would suggest that there are only six lines to it and I will read it over and you can take it down in longhand. I will read it over slowly and if you have any doubts I can assure you it will be stood over.

Mr. GREEN: It may be dealt with in some of the briefs.

The CHAIRMAN: Well, you see this clause, Mr. Green, is to indicate that the subsidy is to be reflected in the rates on all goods passing over the desert area both east and west and that these are to be settled by the board. I will read the exact amendment. It is subsection 5. You would perhaps like to get it in the right place in the bill. It is clause 18 of the bill and it is subsection 5, a new subsection. Have you all got the right place?

The amounts paid under subsection one shall be applied to a reduction in the relative level of rates applying on freight traffic moving between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the Board may allow or direct.

Mr. JOHNSTON: Where it says "shall be applied to a reduction" do you mean a proportionate reduction?

The CHAIRMAN: The board is to fix the reduction.

Mr. LAING: How do you define eastern and western Canada?

The CHAIRMAN: Well, as I read the section, Mr. Laing, it means all freight traffic passing over the desert area.

Mr. WHITESIDE: Anything east of Sudbury is eastern Canada.

The CHAIRMAN: Now, have all members of the committee got the text of the amendment? Are there any questions?

Mr. LAING: This amendment is related to the cost of maintaining?

Hon. Mr. CHEVRIER: The trackage. So it says in the first part of the section.

Mr. LAING: We are going to vote \$7 million?

Hon Mr. CHEVRIER: That is right.

Mr. LAING: On the basis that the total cost of maintaining both roadbeds averages \$7 million?

Hon. Mr. CHEVRIER: Annually—"the cost of maintenance of the trackage annually will be in an amount not to exceed \$7 million" so that the Canadian National and Canadian Pacific will have apportioned that which will be fixed by the board.

Mr. LAING: Did we obtain this \$7 million figure out of a study taking several years?

Hon. Mr. CHEVRIER: I do not know how the royal commission arrived at it. I understand it is a formula that was submitted to it by both Alberta and, I think, Saskatchewan too.

The CHAIRMAN: And I think, Mr. Laing, it is only fair to add that it is a \$7 million annual payment and that it is not the full cost of maintaining the trackage over that area.

Mr. LAING: No, but it says: "The annual cost of maintaining the trackage applicable to the Canadian Pacific and to the Canadian National Railways." Now, let us suppose in 1952 that the Canadian Pacific does an enormous amount of track work and the Canadian National Railways does a very small amount. Do we go back to annual payments?

The CHAIRMAN: This section does not refer to the distribution between the railways; this subsection refers to the beneficiaries. I am not asking the committee to deal with any other part of the section now. I am simply asking that this amendment should be dealt with now and the amendment, Mr. Laing, simply refers to the beneficiaries.

Mr. LAING: Well, I think it is related to the method of payment which is in subsection one and you cannot divorce it from that.

The CHAIRMAN: Well, the section indicates that the total sum of \$7 million annually is to be paid. I do not think we need be concerned in dealing with this subsection as to how that \$7 million is to be apportioned C.N. and C.P.

Mr. LAING: You should have an amendment under subsection (a) and (b) then of (1).

Hon. Mr. CHEVRIER: Well, I think I can explain again what is meant by (a) and (b). Under 18(a) the Canadian Pacific Railway Company is to receive the full annual cost of maintaining 552 miles of trackage subject to subsection (4) if the total cost per both railways exceeds \$7 million and under (b) the Canadian National Railways is to receive the full annual cost of maintaining 552 miles of trackage out of a total trackage involved which they have of 985 miles subject also to the provisions of subsection (4). Does that answer your point?

Mr. LAING: They do not have to substantiate these costs?

Hon. Mr. CHEVRIER: Yes, they have and the amount which they will receive will be, in the case of one railway, on the basis of 552 miles of line and of the other railway on the basis of 552 with reference to its 985 miles and it might be, as suggested, less than \$7 million.

Mr. LAING: If you get down to substantiation there might be a year when there was a great amount of work put in and a year when there was little put in.

Hon. Mr. CHEVRIER: It is up to the railways.

The CHAIRMAN: Any further questions on the amendment by adding section (5) to section 18?

Mr. ARGUE: I still think it would be preferable to have discussion of this stood over until Friday. It is a very important section and I cannot see any reason for doing it now.

The CHAIRMAN: Very well, Mr. Argue, the amendment will stand. The committee has had before it now for a number of days the proposed amendment by the Canadian Pacific Railway to section 330, subsection 2, and the words added are the words "and until."

Mr. GREEN: Mr. Chairman, why not let these amendments stand until Friday?

The CHAIRMAN: Well, I felt this, that we have a very heavy day on Friday and if any amendments as to which we are all in agreement and which are simply in the nature of routine machinery could be cleared that surely we could do that.

Mr. JOHNSTON: It is not a contentious subject?

The CHAIRMAN: No, this is an amendment proposed by the Canadian Pacific Railway and accepted by the minister.

Mr. ARGUE: Is there any question of a discussion on this amendment with the counsel for the provinces?

Hon. Mr. CHEVRIER: The two amendments I submitted this morning are those that were printed in the evidence.

The CHAIRMAN: I do not consider that any one is very vitally interested excepting the railway companies themselves. This is a provision regarding the filing and publishing of tariffs.

Mr. GREEN: The amendment says, "deemed to be just and reasonable."

The CHAIRMAN: That is right, and this is the one which I will read now and you can fill in your copies of the bill to add the words.

Mr. JOHNSTON: Where does this come in the bill, Mr. Chairman?

The CHAIRMAN: Section 330, subsection 2, line 44, after the word "unless" add the words "and until". And then on the next line after the word "board" add these words "be conclusively deemed to be just and reasonable and shall." That is the end of the insert.

Shall section 330, subsection 1, carry without amendment?

Carried.

Shall section 330, subsection 2, carry with the amendments as indicated?

Carried.

Now, if you will refer to section 332, which is part of section 7 of the bill—section 332 and after the word "Act" in line 40 add these words "other than a competitive rate."

Mr. GREEN: That would enable the raising of the transcontinental rates?

Hon. Mr. CHEVRIER: Well, I think that was clearly explained by the witness Mr. Evans when he gave his evidence and I indicated I was prepared to accept that. I will let you answer that question.

The CHAIRMAN: Shall the section as amended carry?

Carried.

Mr. GREEN: Mr. Chairman, I think that section should stand.

Mr. RILEY: It is carried now.

Hon. Mr. CHEVRIER: Are you objecting to it?

Mr. GREEN: Well, I want to think it over.

Hon. Mr. CHEVRIER: But this is favourable to your position.

Mr. GREEN: No, but then the competitive rates can be raised and there can be nothing done, as I read it.

Hon. Mr. CHEVRIER: It has only to do with the burden of proof in any event.

The CHAIRMAN: And competitive rates are withdrawn from the operation of the section—"other than a competitive rate."

Mr. GREEN: No, but there is the burden of the proof on the company except in the case of the competitive rate.

Hon. Mr. CHEVRIER: Let us put it this way: under the Act as it now stands all the railway has to do is file competitive rates with the board and they are not subject to formal hearings as the other rates are. Now, section 331 imposed certain obligations upon the railways and upon the board to furnish information with regard to competitive rates, but so far as the filing and the burden of proof is concerned the competitive rate is excluded from the operation of 332 and I think it was clearly the intention of the royal commission that that should be so and why it was not put in there originally by us was perhaps an oversight. When it was brought to our attention by the Canadian Pacific we agreed to put it in.

Mr. GREEN: That would mean that if a transcontinental rate is increased then the railways do not have the onus of showing that that increase is reasonable.

The CHAIRMAN: That has always been the law, Mr. Green.

Mr. GREEN: I would like to have a little time to think that over, because that certainly weakens our position.

Hon. Mr. CHEVRIER: It does not affect your position a particle; if anything, it helps it.

Mr. GREEN: If you can satisfy me on that, I am happy.

Hon. Mr. CHEVRIER: Well, I objected a moment ago to Mr. Evans giving additional evidence. If it is going to satisfy you I will ask him to come forward.

Mr. JOHNSTON: He has already stated his point on this, hasn't he?

Mr. RILEY: Let him come forward again.

Mr. F. C. S. Evans, K.C., General Counsel, Canadian Pacific Railways, recalled:

The WITNESS: I think, Mr. Chairman, that it is quite clear that what this amendment does is to retain the position which the railways always have had under the Act to meet or not meet competition as they chose and it does, as Mr. Green suggests, preserve the right for the railways to decide whether they meet that competition or not, and unless you are going to change that rule and compel the railways once they meet it to continue to meet it then I think this amendment would be desirable, but if you are going to change that rule, then it seems to me you would make chaos out of competitive rates.

Mr. ARGUE: Mr. Chairman, I am not objecting again but it seems to me that this is a pretty important amendment. From the tenor of the brief of the Saskatchewan Government they have objected to the railway changing rates in the past without any particular reason in their view and this would remove the burden of proof from the railways.

Hon. Mr. CHEVRIER: Well, it does not do that; it simply preserves the position as it is today.

Mr. ARGUE: Well, I think the province of Saskatchewan objected to the position as it is today. I think that is one of their main objections. I may be wrong in my interpretation of their submission.

Hon. Mr. CHEVRIER: The province of Saskatchewan, I think, was the only province that approved wholeheartedly of everything that was submitted here and Mr. MacPherson was here when I made the statement that I was prepared to accept it and he did not challenge it, so I took it for granted that he was satisfied with it.

Mr. GREEN: I think you had better let it stand.

The CHAIRMAN: We will meet Friday morning at 11 o'clock.

The committee adjourned.

HOUSE OF COMMONS

CHI XL 2 Fifth Session—Twenty-first Parliament

1951

(Second Session)

SPECIAL COMMITTEE

ON

RAILWAY LEGISLATION

CHAIRMAN—MR. HUGHES CLEAVER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

IN RELATION TO

Bill No. 6, An Act to amend The Canadian National-Canadian Pacific Act,
1933;

Bill No. 7, An Act to amend The Maritime Freight Rates Act;

Bill No. 12, An Act to amend The Railway Act.

FRIDAY, NOVEMBER 23, 1951

INCLUDING REPORT ON BILLS 6, 7 AND 12

OTTAWA
EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1951

SPECIAL COMMITTEE
on
RAILWAY LEGISLATION

Chairman: Mr. Hughes Cleaver
Vice-Chairman: Mr. H. B. McCulloch

and

Messrs.

Argue	Helme	Macnaughton
Ashbourne	Johnston	McLure
Benidickson	Kirk (<i>Digby-</i>	Mutch
Brooks	<i>Yarmouth</i>)	Nowlan
Byrne	Lafontaine	Picard
Cavers	Laing	Pinard
Chevrier	Macdonald	Riley
Churchill	(<i>Edmonton East</i>)	Weaver
Diefenbaker	Macdonnell	Whiteside
Gillis	(<i>Greenwood</i>)	Wylie—31.
Green	MacNaught	

(Quorum 10).

R. J. GRATRIX

a/Clerk of the Committee

REPORT TO THE HOUSE

MONDAY, November 26, 1951.

The Special Committee on Railway Legislation begs leave to present the following as a

SECOND REPORT

Your Committee has considered the following Bills and has agreed to report the said Bills without amendment:

Bill 6, An Act to amend The Canadian National-Canadian Pacific Act, 1933.

Bill 7, An Act to amend the Maritime Freight Rates Act.

Your Committee has also considered Bill 12, An Act to amend the Railway Act, and has agreed to report the said Bill with amendments.

With respect to Clause 3 of the Bill, as any revision of the Salaries indicated therein would, to meet the views of the Committee, result in an increased charge upon the public, your Committee feels that it has no option, under the Rules of the House and the terms of its Order of Reference, but to report the Clause without amendment. The Committee would, however, recommend that the Government consider the advisability of amending the said Clause 3 to read as follows:

"3. Subsection one of section twenty-six of the said Act, as enacted by section two of chapter sixty-six of the statutes of 1947-48, is repealed and the following substituted therefor:

'26(1) The Chief Commissioner shall be paid an annual salary equal to the salary of the President of the Exchequer Court; the Assistant Chief Commissioner shall be paid an annual salary of *fourteen* thousand dollars, the Deputy Chief Commissioner *thirteen* thousand dollars, and each of the other Commissioners shall be paid an annual salary of *twelve* thousand dollars.'

A Reprint of Bill 12, as amended, has been ordered by your Committee.

A copy of the Evidence adduced in respect of Bills 6, 7 and 12 is appended hereto.

All of which is respectfully submitted.

HUGHES CLEAVER,
Chairman.

MINUTES OF PROCEEDINGS

FRIDAY, November 23, 1951

The Special Committee on Railway Legislation met at 11 o'clock a.m. this day. Mr. Hughes Cleaver, Chairman, presided.

Members present: Messrs. Argue, Ashbourne, Benidickson, Byrne, Chevrier, Churchill, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Macdonald (*Edmonton East*), Macdonnell (*Greenwood*), MacNaught, Macnaughton, McCulloch, Mutch, Nowlan, Riley, Weaver, Whiteside, Wylie.

In attendance: Mr. Hugh E. O'Donnell, K.C., Montreal, appearing on behalf of the Canadian National Railways with Mr. H. C. Friel, K.C., General Solicitor for the Canadian National Railways; Mr. F. C. S. Evans, K.C., Vice-president and General Counsel of the Canadian Pacific Railway Company with Mr. C. E. Jefferson, Vice-president of Traffic, and Mr. K. D. M. Spence, Commission Counsel, also of the Canadian Pacific Railway; Mr. J. A. Argo, Assistant Vice-president, Freight Traffic, Canadian National Railways; Mr. W. J. Matthews, K.C., Department of Transport; Mr. George A. Scott, Director, Bureau Transportation Economics, Board of Transport Commissioners; Mr. Rand Matteson, Executive Manager, and Mr. F. D. Smith, K.C., Counsel, of the Maritimes provinces, and Mr. J. J. Frawley, K.C. representing the province of Alberta.

The Committee resumed the clause by clause consideration of Bill 12, An Act to amend the Railway Act.

It was agreed that Clause 7 in so far as it relates to Section 332B of the Act be last considered and that the remaining clauses be called in order.

That part of Clause 7 relating to Section 328 of the Act, was called, considered and adopted.

That part of Clause 7 relating to Section 329 of the Act, and amendment thereto by Mr. Chevrier, were adopted.

That part of Clause 7, relating to Section 330 of the Act, being called, Mr. Macdonald (*Edmonton East*) moved:

That the amendment proposed by Mr. Chevrier, and adopted at the last meeting of the Committee, be rescinded and that the whole of that part of Clause 7 relating to Section 330 of the Act be reopened for consideration.

After discussion the said motion was agreed to.

Whereupon Mr. Macdonald (*Edmonton East*) moved:

That sub-section (2) of Section 330 be amended by inserting after the word "unless", in line 44 thereof, the words, *and until*; and by inserting after the word "Board", in line 45 thereof, the words *be conclusively deemed to be the legal tolls chargeable by the company and shall*.

After some discussion, and several additional changes in the phraseology of the amendment being suggested, it was agreed that the Section stand until a suitable amendment be drawn by Counsel for the Department of Transport.

That part of Clause 7, relating to Section 330 of the Act, was allowed to stand.

That part of Clause 7, relating to Section 331 of the Act, was called, considered and adopted.

That part of Clause 7, relating to Section 332 of the Act and the amendment proposed thereto by Mr. Chevrier, were called, considered and adopted.

The Section now to read:

332. Where an objection is filed with the Board to any freight tariff that advances a rate previously authorized to be charged under this Act, *other than a competitive rate*, the burden of proof justifying the proposed advance shall be upon the company filing the tariff.

That part of Clause 7, relating to Section 332A of the Act, was called, and, by leave of the Committee, Mr. Mutch moved:

That the word "and" be deleted at the end of sub-paragraph (e); that the word *or* be added at the end of new sub-paragraph (f); and that the words "any other case" be deleted in the first line of new sub-paragraph (g), formerly sub-paragraph (f).

Sub-paragraph (e), new sub-paragraph (f) and new sub-paragraph (g) (formerly (f)) now to read:

"352A (e) rates over the White Pass and Yukon route;

"332A (f) rates applicable to movements of freight traffic upon or over all or any of the lines of railway collectively designated as the "Eastern Lines" in the Maritime Freight Rates Act as amended by the Statute Law Amendment (Newfoundland) Act, or

"332A (g) where the Board considers that an exception should be made from the operation of this section."

After discussion, and the question having been put, the said amendments were agreed to.

Clauses 8 to 17, inclusive, were called, severally considered and adopted.

Clause 18, and the amendment (new sub-paragraph 5) proposed thereto by Mr. Chevrier, were called, and by leave of the Committee, Mr. Chevrier inserted after the word "moving", in line 45 thereof, the words "in both directions". The new sub-paragraph (5) now to read:

"(5) The amounts paid under subsection one shall be applied to a reduction in the relative level of rates applying on freight traffic moving *in both directions* between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the Board may allow or direct."

After discussion, and the question having been put, the said amendment, as amendment, was agreed to.

Clause 18, as amended, was considered and adopted.

The Committee then resumed consideration of that part of Clause 7 relating to Section 330 of the Act.

The Chairman advised the Committee that an amendment had been drafted and copies would be made available to members of the Committee at the next meeting of the Committee.

It being 1.00 o'clock p.m., the Committee adjourned to meet again at 3.30 o'clock p.m. this day.

AFTERNOON SESSION

The Committee resumed at 3.30 o'clock p.m. Mr. Hughes Cleaver, Chairman, presided.

Members present: Messrs. Argue, Ashbourne, Benidickson, Brooks, Byrne, Chevrier, Churchill, Gillis, Green, Helme, Johnston, Kirk (*Digby-Yarmouth*), Lafontaine, Laing, Macdonald (*Edmonton East*), Macdonnell (*Greenwood*), MacNaught, Macnaughton, McCulloch, Mutch, Whiteside, Whylie.

In attendance: As indicated on the morning session.

The Committee resumed the clause by clause consideration of Bill 12, An Act to amend the Railway Act.

That part of Clause 7 relating to Section 330 of the Act, was called, and after discussion, Mr. Green moved that Section 330 of the Act be amended by re-lettering sub-paragraph (2) as sub-paragraph (5) and to read as follows:

"(5) Where a freight tariff is filed and notice of issue is given in accordance with this Act and regulations, orders and directions of the Board, *the tolls therein shall, unless and until they are disallowed, suspended, or postponed by the Board, be conclusively deemed to be the lawful tolls and shall take effect on the date stated in the tariff on which it is intended to take effect, and it shall supersede any preceding tariff, or any portion thereof, in so far as it reduces or advances the "tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the Board or is superseded by a new tariff, charge the tolls as specified therein."*

and that Section 330 of the Act be further amended by the addition of new sub-paragraphs (2), (3) and (4) to read as follows:

(2) Unless otherwise ordered by the Board, when any freight tariff other than a competitive tariff reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the Board at least three days before its effective date.

(3) Unless otherwise ordered by the Board, when any freight tariff other than a competitive tariff advances any toll previously authorized to be charged under this Act, the company shall in like manner file and publish such tariff at least thirty days before its effective date.

(4) Competitive rate tariffs shall be filed by the company with the Board and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

After discussion, and the question having been put, the said amendments were agreed to.

That part of Clause 7 relating to Section 330 of the Act, as amended, was considered and adopted.

The Chairman then called that part of Clause 7 relating to Section 332B of the Act, and after discussion the said section was agreed to.

Clause 7, as amended, was considered and adopted.

That part of Clause 3 relating to Section 26 of the Act, and amendment thereto proposed by Mr. Lafontaine, were called.

After discussion, the said amendment was withdrawn and it was agreed that the following recommendation be included in the Report to the House:

With respect to Clause 3 of the Bill, as any revision of the salaries indicated therein would, to meet the views of the Committee, result in an

increased charge upon the public, your Committee feels that it has no option, under the Rules of the House and the terms of its Order of Reference, but to report the Clause without amendment. The Committee would, however, recommend that the Government consider the advisability of amending the said Clause 3 to read as follows:

3. Subsection one of section twenty-six of the said Act, as enacted by section two of chapter sixty-six of the statutes of 1947-48, is repealed and the following substituted therefor:

26 (1) The Chief Commissioner shall be paid an annual salary equal to the salary of the President of the Exchequer Court; the Assistant Chief Commissioner shall be paid an annual salary of *fourteen* thousand dollars, the Deputy Chief Commissioner *thirteen* thousand dollars, and each of the other Commissioners shall be paid an annual salary of *twelve* thousand dollars.

Clause 3 was then adopted.

The Title was adopted.

The Bill, as amended, was adopted.

Thereupon the Chairman was ordered to report the Bill, as amended, to the House.

The Committee then considered a draft Report to the House and on motion of Mr. Macdonald (*Edmonton East*) the said Report was adopted, on division.

On motion of Mr. McCulloch:

Ordered,—That Bill 12, as amended, be reprinted.

At 5.20 o'clock p.m. the Committee adjourned.

R. J. GRATIX,
Acting Clerk of the Committee.

NOTE: At the last preceding meeting (*See page 257, of Minutes of Proceedings and Evidence, Tuesday, November 20, 1951*) briefs from the following representative organizations were received and ordered to be printed as appendices to the Minutes of Proceedings and Evidence, viz:

Canadian Manufacturers' Association
The Canadian Industrial Traffic League
Canadian Fruit Wholesalers' Association
Montreal Board of Trade
Toronto Board of Trade
Vancouver Board of Trade
Okanagan Federated Shippers Association.

These briefs are appended hereto as appendices A, B, C, D, E, F, and G respectively.

The Calgary Board of Trade notified the Committee that plans to present a brief had been cancelled.

EVIDENCE

NOVEMBER 23, 1951

11.00 a.m.

The CHAIRMAN: Gentlemen, will you come to order; we have a quorum.

Members of the committee will recall that at the opening of our meeting on Tuesday last I advised the committee that mimeograph copies of all briefs would be prepared and delivered to the committee. That was done so that you would all have plenty of time to study them. I also indicated how important it was that we should if possible clear this legislation today. An important hearing is commencing before the Board of Transport Commissioners on Monday and many of those who have been in attendance on this committee will require to be there.

Mr. GREEN: On that point, Mr. Chairman, I take it that the hearing of evidence has been completed?

The CHAIRMAN: Yes.

Mr. GREENE: So that the people who have been sitting with us need take no further part in our proceedings. I think what remains must be purely a question of the committee's decision on the different sections themselves. Isn't that the picture?

The CHAIRMAN: I think that is the picture, Mr. Green. And now, as to the bill itself: is it the wish of the committee that I should call all the sections which have not yet been carried in order of their number, excepting section 332(b); that would be, I expect, a contentious section; should we leave that one until last? Is that agreed?

Agreed.

Mr. LAING: Mr. Chairman, there are some suggestions in the briefs that we have today concerning sections outside of that one. It seems to me that these briefs are entirely reasonable. I do not know whether the minister would care to comment on that; that is, the definition of the various rates?

The CHAIRMAN: I suggest, Mr. Laing, that we are at that section now. I was about to call section 7—328. If members will turn to page 84 of our minutes of proceedings and evidence you will find there the suggested amendment by the C.P.R., and you will have before you then the section as it stands.

Mr. MUTCH: Is that page 84?

The CHAIRMAN: Page 84, yes.

Mr. GREEN: Mr. Chairman, I wonder if we could have an explanation from the minister or someone else with regard to the definition? Not only were the suggested amendments made by the Canadian Pacific Railway but I see that in the brief of the Canadian Industrial Traffic League, at page 2, there are suggested changes to several of the definitions. Incidentally, of course, these briefs have not yet been printed.

The CHAIRMAN: They have been mimeographed and delivered to every member of the committee so that every member of the committee would be familiar with the contents of those briefs.

Mr. GREEN: I mean, Mr. Chairman, that they have not been printed in the record so that I could not refer to them by the page number in our record?

The CHAIRMAN: That is right.

Mr. GREEN: There are several suggested amendments in the brief of the Canadian Industrial Traffic League; and then, there are also suggested amendments in the Canadian Manufacturers' Association brief at page 3. Now, there may be other suggestions in the other briefs, but there are certainly those two to which I have referred.

Mr. LAING: In the addendum to the Canadian Manufacturers' Association brief you will see a further suggestion, there at the bottom of page 1.

Mr. GREEN: That is right. In the addendum, in the additional submission from the C.M.A. there is a further reference to section 328. Could we have some explanation of this?

Hon. Mr. CHEVRIER: Mr. Chairman, perhaps I should say that this section arose out of the recommendation of the commission to be found at page 126 of the report. That report sets out that there should be abolished the present standard maximum mileage tariffs and there should be substituted in lieu thereof a class rate tariff, a commodity rate tariff, a competitive rate tariff and a special arrangements tariff; all of which this section does. Then, in so far as definitions are concerned, the legal and technical committee that was established in the department are those who after most careful consideration and discussion with experts of the Board of Transport Commissioners arrived at these definitions. I have seen the definitions of the Industrial Traffic League brief and I would not be prepared to recommend any change to this section. This is really the basic section. This is the section which would establish the new freight rate structure, and in place of the old classification it will establish these four class rate tariffs. The Canadian Pacific Railway also have submitted a brief and feel that this section should be amended. I am not able to accept that amendment and I think that the recommendations of the Royal Commission are carried out to the full in section 328.

Mr. GREEN: Well, Mr. Chairman, the recommendations of the royal commission are really not in question on this point; it is merely the wording of the definitions; and I am not sufficiently expert on freight rates to know whether there should be some change in these definitions or not. But the Canadian Industrial Traffic League of course are, and they suggest that the class rate be defined as a rate applicable to a class rating to which articles are assigned in the freight classification or any exception thereto. And now, as I say, those men are experts. They also offer similar minor changes in the other definitions. A commodity rate, they suggest, should be defined as a rate lower than the class rate. And now, that is something like the suggestion made by the Canadian Pacific Railway, I think it is much to the same effect.

Mr. LAING: That is also referred to in the brief submitted by the C.M.A.

Mr. GREEN: Yes, they ask that competitive rates be defined as a class or commodity rate that is issued to meet the exigencies of competition; and those are the same words as used in the recommendation from the C.M.A.

Hon. Mr. CHEVRIER: Yes.

Mr. GREEN: I do not know whether it is a better definition. I will have to have some explanation of that.

Hon. Mr. CHEVRIER: I am afraid I am not an expert. I cannot add a great deal to what I have said, other than this; that you have here the different methods of amending the definition of these various rates. The Canadian Pacific Railway suggests one, the C.I.T.L. another and the Canadian Manufacturers' Association a third. I think that in effect they all boil down to the same thing, and that is what our people had in mind when they prepared this definition after consultation with the board. I feel that we should not disturb the definitions as they are now.

Mr. MACDONNELL: I certainly am not a traffic expert, Mr. Chairman, and I am at the disadvantage of having been away for some days. I also realize the necessity for suggestions from other quarters.

Hon. Mr. CHEVRIER: Hear, hear.

Mr. MACDONNELL: The Canadian Industrial Traffic League are certainly competent to offer suggestions and in my view if they make certain suggestions it would be reasonable that we should examine them and then decide on their merit. Would it not be reasonable for us to have someone who is an expert advise us as to whether or not that is reasonable. For instance, take the one at the bottom of page 2, of the C.I.T.L. memorandum. That appears to add the words "or any exception thereto." To my mind, we might have an explanation as to the effect of that. And now, I hesitate to express an opinion, but I confess that to me that would be a reasonable suggestion. It is merely a matter of a bit of draftsmanship to cover the thing adequately. I repeat, would it not be reasonable to have somebody whose opinion we can trust, who can give us expert advice on this matter. I put that suggestion forward in all seriousness.

Hon. Mr. CHEVRIER: Perhaps Mr. Matthews, counsel for the Department of Transport, would give us some explanation on that?

Mr. MATTHEWS: Mr. Chairman, I am not qualified as an expert. I have only made a study of the freight rates for about six months. Now, the definitions here in the bill are taken from the American practice and we think they are sufficiently comprehensive to cover the case. I have objections to make to all the suggestions that were made to amend these definitions. For instance, there is the Canadian Pacific Railway definition of class rates: "a class rate is a rate applicable to commodities according to the class to which they are assigned in the freight classification"; and on that I would object to the word "commodities". I think that is confusing that with the commodity rate, and that would be an important objection to their suggestion. Then, as to the amendment suggested by the Canadian Industrial Traffic League, they want to add the words, "or any exception thereto". I think that would be meaningless because a freight classification is supplied by the board, and if there are any exceptions to it it is a part of freight classification and would be defined as a commodity rate. There might be the odd commodity on which there would be a higher class rate but I do not think there could be very many; but it might be that there are some; but I do not think a change should be made.

Mr. LAING: The point is there would not be any if this were put in.

Mr. MATTHEWS: That would be right. I think the majority—in fact, there must be 99 per cent of the commodity rates lower than the class rates.

Then the next is a suggestion they make about competitive rates. That is the one which reads:

A competitive rate is a class or commodity rate that is issued to meet the exigencies of competition.

That just introduces some high-faluting language there. The definition says:

A competitive rate is a class or commodity rate that is issued to meet competition.

I cannot see any need for that.

Mr. Mutch: It might be argued before the Board of Transport Commissioners at some time.

Mr. MATTHEWS: I was going on to speak of the C.P.R. suggestion in paragraph 3 and 4. They introduce the word "normal class rate," and that word "normal" always raises a difficulty and I would object to that. Personally I do not know what a normal rate is.

Mr. JOHNSTON: Isn't it true that I understood the minister to say that this section had been carefully gone over by the Board of Transport Commissioners and the department and they have come to the conclusion that they cannot very well change it and still be in line with what the commission recommended?

Now, if the Board of Transport Commissioners has gone over this carefully with that in mind it seems to me we should accept the definition as in the bill; otherwise, we are going to upset the procedure of the Board of Transport Commissioners and also the conclusions reached by the royal commission.

The CHAIRMAN: Shall section 7 carry?

Mr. GREEN: With regard to the definition of a competitive rate, the note I have on my copy of the sheet handed in by the Canadian Pacific Railway says that they wanted it clear that lower competitive rates could be set. They wanted it made clear that a competitive rate could be a lower rate and that is why they suggest—"rates lower than the normal class rate or commodity rate."

Now, it seems to me that there is some advantage to the people who are going to pay the freight rates in making it clear that a lower rate can be set. Now, perhaps the word "normal" can be left out, but is there not some benefit to be gained by putting in that definition or provision that a competitive rate is lower than a class or commodity rate?

Hon. Mr. CHEVRIER: Well, the railways can establish competitive rates that are lower than present rates without regard to this bill at all; they have that by virtue of another section.

Mr. GREEN: Well, this is a definition of a competitive rate and if you put in that it must be lower than a class rate or a commodity rate, then you have it definitely established that a competitive rate is a lower rate.

Now, what is the objection to including the words which bring about that result?

Mr. Mutch: Are they not redundant? Isn't it obvious that people do not compete—well, perhaps they do, but it is not the general impression—they do not compete to raise rates, the competitive rates are obviously in the nature of things a lower rate and an attempt to save business from competition.

The CHAIRMAN: If members of the committee will read subsection 4:

A competitive rate is a class or commodity rate that is issued to meet competition.

Now, is not that expressed in the widest possible terms without any limitation of any kind? Shall the section 328 carry?

Carried.

Section 7—we are still on 329—class rate tariffs. Now, there again on page 85 you will find the C.P.R. amendment and as to this clause the minister moved at our last meeting an amendment to (b), now to read:

May in addition specify class rates between specified points on the railway and when such rates are established in groups the rate between the groups may be higher or lower than the rate specified in paragraph (a).

Shall the section as amended carry?

Mr. LAING: May I call attention to the brief of the Canadian Industrial Traffic League at page 3? They deal with section 329. I am of the opinion that they do not regard it as particularly serious but they do suggest that there is an ambiguity there where they speak of two companies' interest whereas it should be one company's interest. No. 329 is dealt with in the middle of the page. Then they suggest that the words "higher or" be deleted. I only want to say this, Mr. Chairman, that I was quite impressed with the brief of the Canadian Industrial Traffic League. I think they are giving us the best possible profes-

sional advice on this matter and I think they are a group of men who know as much about the very complicated business of rates as anyone who has appeared before us and as a group I think they are giving us very good professional advice.

The CHAIRMAN: And they oppose the proposed C.P.R. amendment?

Mr. LAING: They do, yes, but they do suggest a clarification of whether or not it is one road or two roads that are involved here.

Mr. MUTCH: Perhaps Mr. Matthews would comment on that?

Mr. MATTHEWS: That is what we are endeavouring to do by the amendment to paragraph (b)—to clarify that.

Mr. GREEN: There was a point brought up here by the Toronto Board of Trade in regard to this section. They say—two sections of 329 on the class rates tariff are specified—

“This requires clarification. Under the terms of the bill, section 332A, the railways may be required to publish a uniform class rate scale on a mileage basis—”

The CHAIRMAN: Excuse me, Mr. Green, what page are you reading from?

Mr. GREEN: Page 1.

“—applicable across Canada. It is presumed that if such a scale is established, it will take the place of the present standard mileage rates and all other class rates, including schedule “A” and distributing class rates, and serve as the maximum scale of rates permitted to be charged by the railways. If this is the case and such a scale is to be published in one tariff, will the class rates between specified points on the railway authorized in subsection (b) which it is specified may also be included in the same tariff supersede and nullify the mileage rates authorized in subsection (a) between those points? The intent should be stated”.

The CHAIRMAN: The new amendment to (b), Mr. Green, I think meets that point—the minister’s amendment to (b) which I just read I think meets that point.

Mr. GREEN: Well, do you think it does? Can we have an explanation of that?

Mr. MATTHEWS: Well, Mr. Chairman, under paragraph (a) it provides for the mileage class rate basis and under paragraph (b) it provides for the class rates between specified points and then also to take care of the grouping and I think that covers the point that arose in the Toronto Board of Trade submission.

The CHAIRMAN: You see, Mr. Green, the Toronto Board of Trade did not have the minister’s amendment to (b).

Mr. GREEN: No.

Mr. LAING: Could we get some comment on the Canadian Industrial Traffic League’s submission to delete the words “higher or” because they are still contained in the minister’s amendment?

Mr. MATTHEWS: Well, that has to be there—“higher or lower” for the reason I explained at the last meeting of the committee because the group rates on the points between the groups have to be averaged out and some must be higher and some lower than if it was on a mileage basis.

Mr. LAING: What about “should not exceed the class rates on a mileage basis”?

Mr. MATTHEWS: Well, if we are going to allow grouping you will have to have these points to be averaged between certain groups.

The CHAIRMAN: Shall 329 as amended by the minister’s amendment to subparagraph (b) carry?

Carried.

Mr. MACDONALD: With regard to section 330, which was carried the other day, I would like to have the indulgence of the committee to revert to that section and I would like to submit for the consideration of the committee a proposed amendment of which I have copies here.

On page 84 of the evidence it is noted that the Canadian Pacific Railway has suggested an amendment to this section 330(2), and if you look at the bottom of page 84 there is one place underlined, "and until", and another place underlined, "be conclusively deemed to be just and reasonable and shall".

Now, the amendment that I propose reads as follows:

"Where a freight tariff is filed and notice of issue is given in accordance with this Act and regulations, orders and directions of the board, it shall, unless and until it is disallowed, suspended or postponed by the board, be conclusively deemed to be the legal toll chargeable by the company and shall—"

And the section follows the same after that. Now, the only purpose of the amendment stated by the C.P.R. counsel was to protect the railway against reparations. I am quite in accord this protection should be given, but I submit that the C.P.R. amendment goes much further. The amendment as suggested by the C.P.R. might well provide insurmountable barriers to a shipper seeking the disallowance of a rate on the ground that it was unjust and unreasonable. That has always been a privilege of the shipper, and I am quite sure that the railways or the committee would not wish to interfere in the slightest with that basic right of the patrons of the railway.

It is true the section contemplates application for disallowance, suspension or postponement of rates, but the effect of the C.P.R. amendment might be to limit such application to the ground of unjust discrimination as distinguished from the ground of being unjust and unreasonable.

Mr. Chairman, I understand that the provinces of the maritimes, British Columbia, Alberta and Saskatchewan have requested the amendment that I propose and the amendment that I propose gives the railways complete protection against reparations.

The CHAIRMAN: Well, gentlemen, I would like at this point to read a wire received from Mr. MacPherson:

"Impossible for me to attend Ottawa tomorrow. Will you respectfully submit to minister and committee that amendment proposed to section 330 in present form may bar legitimate claims of freight users and further amendment should be made restricting reparations claims only."

Now, I have allowed Mr. Macdonald to make his submission and I have read the only communication which I have received on the subject, and I think there, gentlemen, my duty ends.

This section was studied and carried by the committee at our last meeting and I have tried to be fair in my ruling. I think that unless the counsel for the Canadian Pacific Railway will consent to it being re-opened we have got to end the discussion sometime and I do not think it should be re-opened; I might in addition call attention to the fact that under the amendment these rates are declared to be conclusively just and reasonable too, you see, unless and until the board changes them. I do not see any point to the amendment.

Mr. ARGUE: Mr. Chairman, I think if this amendment has been shown now to the provinces that are interested in it—and I cannot imagine that it has been shown to Mr. MacPherson in the exact words in which it was presented to the committee before—that the committee should at least consider that amendment and the only way we can consider it is to re-open the discussion on 330.

If it does protect the C.P.R. and all of the provinces that Mr. Macdonald mentions are in favour of the changed wording I do not see why the committee should object.

The CHAIRMAN: Well, Mr. Argue, read the section: "unless it is disallowed, suspended or postponed". Now, what greater protection could anyone want than that? You have heard, as I have heard, the Canadian Pacific Railway deal with it and they are more or less the lone wolf and being imposed on, and I think having carried the section after careful study of it that it should stand unless the Canadian Pacific feel it should be re-opened. Mr. Evans, how do you feel about it?

Mr. EVANS: I would not want to have it suggested that I would not consent to having it re-opened. I respectfully suggest that the fears with regard to the amendment which have been expressed are not well founded, but I would not wish to be taken as being in the position of saying no to anything.

Mr. ARGUE: Well, Mr. Chairman, I am no expert and I am not too sure perhaps of the import of the amendment presented to us last time or the change suggested this time, but I do feel that the amendment could not have been properly considered by the committee—we are laymen—when it was presented to us, and I for one had no opportunity to discuss it with experts from our province to see what they think of it.

Now that a discussion has taken place they may want the suggested amendment and the least the committee can do is to reconsider it.

The CHAIRMAN: Well, Mr. Evans has indicated that he is not opposing the reconsideration of it but now that you are reconsidering it, gentlemen, I would ask you to please read the section.

Mr. JOHNSTON: I was just going to point that out, Mr. Chairman. You expressed yourself a moment ago that you as chairman did not think it should be allowed to be re-opened unless the Canadian Pacific Railway agreed—

The CHAIRMAN: We have got to end our studies sometime.

Mr. JOHNSTON: Well, the C.P.R. have suggested that they have no objection to it being re-opened.

The CHAIRMAN: Well, now it has been re-opened and I am asking the members of the committee to please read it.

Mr. JOHNSTON: I have read it very carefully and seeing that the Canadian Pacific Railway's great concern in this case was to have protection from reparations, now I think they should have protection from reparations but I think that that protection would be probably more assured to them if what is suggested in the amendment was carried out and that "just and reasonable" were taken out and "legal rate" put in there.

It seems to me that that term itself would give greater protection to the C.P.R. than the way it stands, and in view of the fact that the provinces have requested it I would agree to do that. Let them prove the legality in a court.

The CHAIRMAN: Mr. Evans, would you care to express your opinion on this? Do you feel that this proposed amendment would detract at all from your safety in regard to reparations?

Mr. EVANS: I think, Mr. Chairman, that the language of the proposed amendment really—that is to say, my proposed amendment is as clear as it could be. I think it is more clear to say that until the board exercises its powers to disallow or suspend the rates, the rates are to be deemed just and reasonable.

My point is simply this, that the obligation of the railway company is to have rates which are just and reasonable, and the foundation of all reparation claims is on the theory that rates have in the past been unjust and unreasonable. So that it does seem to me that the language that I suggest is the language which

goes to the root of this question of reparations and I also say this, that what may be the legal tolls may well be held, if you had to go to the courts to determine it, the just and reasonable tolls. But I must earnestly say to you that no one could possibly have his right to claim that a given rate is unjust and unreasonable taken away by the words of that amendment that I propose.

Hon. Mr. CHEVRIER: In other words, if the rates were unjust and unreasonable they would not be legal rates, would they?

Mr. EVANS: Well, that is one of my difficulties. I do not know whether they would or not.

Hon. Mr. CHEVRIER: Well, put it the other way around—if they are just and reasonable then they are legal?

Mr. EVANS: Well, they are lawful, if you like that expression.

Mr. MUTCH: The action might then lie against the board.

Mr. JOHNSTON: Mr. Chairman, just on a point of clarification, I am not too sure—there are so many of these rates that I get terribly confused on it—but, for example, the rate on coal coming from Alberta, from Drumheller, is \$38.80. That is the approved rate. That was the rate which was approved as being just and reasonable. Now, the rate which is charged on that commodity is \$13.10. Now, that is the normal rate and that is the rate which is charged.

Now, it seems to me that being that that is the rate which is being charged, that is the legal rate. Well now, if the words “just and reasonable” are substituted here for “legal rate” it seems to me that once the railway decides to charge \$13.10 then nobody can come in and ask for reparations if this amendment were adopted because that is the rate that is charged and that would be the legal rate. Now, it would not be necessarily the approved rate. The approved rate was \$38.80, but, as I take it, the railway is not charging that rate; they are charging \$13.10.

Well now, if this amendment were carried it would mean that \$13.10 should be the legal rate and, therefore, the company could come in and sue the railways for reparations saying that that was not the legal rate.

Now, that is the only reason I bring this point up. It seems to me that that would be greater protection for the Canadian Pacific Railway because that would be designated then the legal rate and no company could come in and say to the railway, “Now, that is not a legal rate and we want reparation.” And that would be my point in supporting the amendment, Mr Chairman, that the rate which is charged may not be the rate which was approved as just and reasonable by the board.

That rate could be much higher, but if it is established in law as being just and reasonable then that would give the railways complete and efficient and thorough coverage from the point of view that they are asking for it.

Mr. GILLIS: I am not going to argue the merits or demerits of the amendment. I am going to say something on the matter of procedure. Now, we heard Alberta, British Columbia and the maritimes and we discussed this section 330 and we passed it. Now Mr. Macdonald gets up this morning and he assures us that the maritimes, British Columbia, Alberta and Saskatchewan are favourable to this change. He may know that; I do not know it. I think if we are going to re-open section 330 we have already discussed a proposed amendment which was made by Mr. Evans, and if we are going to discuss this and make changes in it, as far as I am concerned I want the British Columbia representative to speak for that province, to come up here and tell us he wants this amendment, also the maritimes and the representative from Alberta.

There are none of us on this committee who have any right to get up and speak for the different provinces across the country; they had their representatives here—some of them are still here, and I want to hear evidence from the provinces on the point of whether this is desirable or otherwise.

Now, Saskatchewan—you have a telegram from their representative and he indicates that some amendment is necessary, but I would like to hear British Columbia's representative say that he thinks this is necessary. I certainly want to hear the people who represent the four maritime provinces say they think it is necessary. While I do not doubt Mr. Macdonald's veracity at all, I am not taking his word for it that the sections of the country I am trying to represent here are favourable to this change when we have representatives from that part of the country right here in the committee. I want the assurance from them.

Hon. Mr. CHEVRIER: Well, Mr. Chairman, I think perhaps at this stage I should say that the representatives of these provinces came to see me, that is, the representatives of British Columbia, the maritime provinces and Alberta, and suggested to me that perhaps the amendment which had been approved by the committee, the one which I had submitted to the committee and the one which had originally been submitted by the Canadian Pacific Railway Company might or could be misinterpreted. They asked if I would give consideration to an amendment such as that which has been proposed by Mr. Macdonald and I said I would but I would like to get the reaction of the Canadian Pacific Railway Company.

Now, there is no doubt but that the three representatives of the provinces favour this amendment, but I do not like the idea, I must say, of re-opening sections that have already been passed and I so indicated to counsel for the provinces. However, the matter is for the committee to decide and I would not like this to be taken as a precedent, the opening up of every section, because we have heard evidence.

However, Mr. Evans has stated that he thinks that the section proposed in the way in which it is framed will meet the position. The chairman has an idea that perhaps he might express.

Mr. LAING: Mr. Chairman, the only aggrieved parties out of any misinterpretation or ill-writing of this section would be the railways. We have had Mr. Evan's opinion. Would Mr. O'Donnell care to give us his opinion as to whether or not the railways are adequately protected by the section?

The CHAIRMAN: I just have one suggestion to make, if I may. "Just and reasonable" I assume has a very distinct meaning with a long list of authorities backing them up. "Legal rates" I would think would be open to some doubt. What would members of the committee and representatives of the Canadian Pacific Railway think of "lawful rates"?

Mr. MACNAUGHTON: I think you run into the same difficulty, Mr. Chairman.

The CHAIRMAN: No, it is nothing like as broad as "legal."

Mr. MACNAUGHTON: Oh, I agree with you, Mr. Chairman, that "just and reasonable" means something in a court of law—it means something in English—whereas "legal" could mean anything. It is an invitation to go to the courts.

The CHAIRMAN: "Lawful" means within the law, and I would think would protect against reparations.

Mr. Mutch: If the potential victims are satisfied with what we have, why change it?

Mr. GREEN: I notice Mr. Evans submitted an alternate amendment to meet the situation which was an amendment to section 343 of the Railway Act.

The CHAIRMAN: He expressed a preference for this amendment, Mr. Green, and the amendments was accepted by the minister.

Mr. GREEN: Wait until I point out that the suggested amendment to 343 reads as follows:

If the company files with the board any tariff, and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, tolls under such tariff while so in force shall be conclusively deemed to be the legal tolls chargeable by such company.

They use the word "legal" in just the same way as this proposed amendment by Mr. Macdonald uses it.

Hon. Mr. CHEVRIER: We gave some thought to the two sections and we came to the conclusion that of the two we would prefer the amendment to 330.

Mr. GREEN: I point out in this alternative amendment the word "legal" is used by the Canadian Pacific Railway.

The CHAIRMAN: Mr. Evans?

Mr. GILLIS: Before Mr. Evans goes on I would like to ask a question. Has this committee decided that we were going to vote on this clause—an amendment to this clause? It would require a motion of the committee to re-open the section and to amend it.

The CHAIRMAN: You are quite right, Mr. Gillis, and I had it in mind. It was expressed that there were no objections to its being re-opened and the committee decided that they wished to re-amend a section. I will ask for a motion to re-open the section and make the necessary amendment. Should the committee, however, decide not to amend it there will be no need to have a motion to re-open.

Mr. GILLIS: Is it not a lot of time wasted—putting the cart before the horse.

I want to thank the minister for the assurance that the provinces indicated by Mr. Macdonald did make representations to him but I would like to say this. It would make for better unanimity if the provinces indicated to the members from their province that they want changes like that. It would avoid a lot of argument.

Mr. MACDONALD: I may say that I had no discussion with the minister with regard to the phrasing of this amendment.

The CHAIRMAN: All right, Mr. Evans.

Mr. EVANS: I think if it came to a scrap the word "lawful" would meet it.

Mr. JOHNSTON: What is that?

Mr. EVANS: If it came to real difference of opinion the word "lawful" would meet it. I expressed my preference for this one as compared to the one Mr. Green gave a moment ago, for that very reason. I thought the language was more clear using "legal" than using "lawful".

Mr. GREEN: You used the words "legal tolls" yourself?

Mr. EVANS: That is already in the Act. I was taking some language out of 343 that limits the present section in its application to prosecution for offences under the act. I took out the words relating to prosecution, so it would have general application—but I always expressed preference for the subsection as the minister read it.

Mr. MACNAUGHTON: Do I understand you prefer the words "just and reasonable" but you would settle for "lawful"?

Mr. EVANS: I prefer "just and reasonable".

The CHAIRMAN: Mr. Macdonald, would you care to make a motion?

Mr. MACDONALD: I would move that the item be re-opened for consideration and amendment, Mr. Chairman.

The CHAIRMAN: And that the amendment to Section 330 as passed at our meeting last Tuesday be rescinded? All those in favour?

Mr. ARGUE: Before the motion is put—when we were considering what Mr. Macdonald had said on the previous amendment, you asked the representative of the C.P.R. what he thought of the amendment. I think in the same way you should ask Mr. Frawley, for example, what he favours?

Mr. MUTCH: Let us have the motion carried?

The CHAIRMAN: We have a motion to re-open the section and I intend to call on Mr. Frawley.

All those in favour of Mr. Macdonald's motion?

Carried.

Mr. Frawley, will you please indicate your views on the word "lawful" instead of "legal" rates?

Mr. FRAWLEY: If the committee feels they would like the word "lawful" rather than "legal" I would not press it.

The CHAIRMAN: Gentlemen, we have reached agreement. Mr. Macdonald moves the subsection (2) of section 330 be amended to read as follows:

Where a freight tariff is filed and notice of issue is given in accordance with this Act and regulations, orders and directions of the board, it shall, unless and until it is disallowed, suspended or postponed by the board, be conclusively deemed to be the legal tolls chargeable by the company, and shall take effect on the date set.

Mr. FRAWLEY: Might I be permitted another word. The expression "legal tolls" in 343, where "legal tolls" in 330(2) was doubtless taken, have been in the Railway Act a long time and they have a particular meaning. The courts know what the expression "legal tolls" means. My considered opinion is that "legal tolls" is the better expression.

The CHAIRMAN: But you do accept "lawful" without reservation?

Mr. FRAWLEY: If that seems to be the breaking point, then have it "lawful tolls".

The CHAIRMAN: All those in favour please signify?

Mr. LAING: What are we voting for?

The CHAIRMAN: We are voting on subsection (2) of section 330 which I have just read and which counsel for the province of Alberta and for the C.P.R. have accepted as satisfactory.

Mr. LAING: I am not a lawyer and there is a lot of high priced legal help here, but I think the adjectives "legal" or "lawful" still have to be proved in the courts of this country. You have got to prove it from day to day and from that you have an appeal. That is one of the rights we still have—to sue or to be sued.

The CHAIRMAN: Would you rather have "just and reasonable" as we carried it?

Mr. LAING: The way I would accept it would be the way we had it the other day.

The CHAIRMAN: Well, all those in favour of Mr. Macdonald's motion?

Carried.

Mr. GREEN: On this section 330, there have also been submissions made in practically all of the briefs which we have received after the last meeting concerning the failure to include in section 330 a provision for notices of a drop in the rates.

The CHAIRMAN: Are you moving that we should re-open it again? We have already opened it, carried the amendment, and carried the section as amended.

Mr. GREEN: We have had a motion to re-open the section and I think that opens the whole section.

The CHAIRMAN: Well, it was open until I put the last motion.

Mr. GREEN: You have just put a motion dealing with subsection (2), I am dealing with subsection (1).

The CHAIRMAN: We only opened subsection (2).

Mr. GREEN: You opened the whole section. After all, this committee has a very important job to do on this section 330, and when it was carried the other day it had only been dealt with in respect to this particular C.P.R. amendment. I think the minister will confirm that. He told us just a few minutes before we adjourned that he had agreed to an amendment and there was no consideration whatever given to subsection (1). Since that date we have had these submissions from different bodies and I am reading from the Toronto Board of Trade submission, on page 2.

The CHAIRMAN: At what page?

Mr. GREEN: Page 2:

"The proposed amendment in this section of the bill eliminates the statutory protection of filing freight tariffs with the Board of Transport Commissioners at least three days before their effective date, in the case of reductions, and thirty days previous to the effective date in the case of increases. In the opinion of this Board—"

that is the Toronto Board of Trade—

"all statutory protection which shippers and receivers of freight now enjoy under the present Act should be continued unless provision is made for the payment of reparations. As there is no such provision in the bill—" and in our amendment to subsection (2)—we are doing away with any provision for reparations—

"As there is no such provision in the bill it is suggested that this section be further amended by adding after the words 'orders or directions made by the board' at the end of subsection (1), the words 'provided, when any tariff, except competitive tariff, specified in section 331 of this Act, reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the board at least three days before its effective date: further, when any such tariff advances the toll previously authorized under this Act, except tolls covered by competitive tariffs the company shall in like manner file with the board and publish such tariff thirty days previous to the date on which such tariff is intended to take effect. No such tariffs shall be amended or supplemented except with the approval of the board.'"

There is a similar recommendation from the Montreal Board of Trade on page 2:

"Section 330—Provision is made in this section for the use of discretion by the Board of Transport Commissioners in determining the period of notice to be provided in the event of increases.

This clause should be amended to specifically require statutory notice of thirty days on all increases in freight rates in order to protect the contractual obligations of shippers."

You have the same submission from the Canadian Industrial Traffic League, commencing at page 4, continuing down through pages 5 and 6. I think there is also the same submission in the brief filed by the Canadian Manufacturers' Association.

It does seem to me, Mr. Chairman, that we have submissions which are worthy of pretty careful consideration. If the advances in tolls are to take effect immediately then there is no chance for the shippers to negotiate with the railways and to discuss the situation. That certainly would affect contracts which had been made quite seriously. It seems to me that an amendment such as that suggested by the Toronto Board of Trade, or some similar amendment,

would clarify the whole situation and protect the rights of the shipper so that there could be no increases except after thirty days notice had been given to study the proposed increase and to try and reach some agreement in regard thereto.

Mr. Mutch: If I may ask a question? Is that not provided for by 331:

"... notice of issue thereof and cancellation..." and so on "... shall be given in accordance with the regulations of the board."?

The CHAIRMAN: If the committee have not confidence in the Board of Transport Commissioners perhaps they would want to write this time limitation right into the Act. As far as I am concerned I have every confidence in them and I think they will make proper regulations that will amply protect the shippers.

Mr. GREEN: The point made in the brief is that these time limits, particularly in the case of an increase in rates, are of such importance to the shipper that the rights should be protected by statute.

The CHAIRMAN: Do you not think that the Board of Transport Commissioners will amply protect the rights of the shippers by regulations?

Mr. GREEN: Well, take for example the Canadian Industrial Traffic League. They are representatives of people who have to do the shipping and they are thoroughly acquainted and fully informed of the whole situation. I think their submission should be given pretty serious consideration, Mr. Chairman, and unless there are serious objections to it the provision should be written into section 330. I do not see why the provision should not be put there.

Mr. MACDONNELL: I feel strongly, Mr. Chairman, along the lines you mentioned—that of leaving a great deal to the discretion of the Board of Transport Commissioners. On the other hand there seems to be a slightly different situation here because we are deliberately omitting something that has been in effect for a long time, if I understand correctly. If there is some objection to putting it in it might be all right, but I wonder if there is any way we can be informed as to whether any inconvenience or disadvantage will result from such an amendment?

Mr. EVANS: I would not have the slightest objection to having it put into the Act—an express provision for this notice.

Mr. GREEN: What would that be?

Mr. EVANS: Thirty days notice on increases and three days notice for decreases.

I assumed, when I looked at the section, that subsection 1 would take care of it. However, I was very seriously perturbed at the last sentence of the suggestion by the Toronto Board of Trade. I think that last sentence would fly right into the teeth of the present Act as well as the theory of the present amendment:

"No such tariffs shall be amended or supplemented except with the approval of the board."

That would mean not only would you have approval on standard tariffs which I think you should have, but approval of every single tariff, competitive or otherwise—which would be really a retrograde step.

Mr. GREEN: You do not object to the remainder of the proposed amendment?

Mr. EVANS: No, I do not.

Mr. GREEN: Do you think it is necessary?

Mr. EVANS: I do not think it is necessary but I do not object to it.

Mr. LAING: The only serious aspect is that pointed out by the Canadian Industrial Traffic League—that there is implicit in this section the idea that the thirty day notice will be dropped—and that is the result of long usage.

There are many instances where freight takes thirty days to get to its destination and I think their approval of the long used practice should be recognized. If the railways have no objection to it I would like to see it included if we possibly could.

The CHAIRMAN: Would you not think the board would cover it by their regulations? And is it not the whole scheme of this proposed amendment to leave power with the board as far as possible?

Mr. LAING: We can understand their concern when it was formerly in the regulations and now it is no longer there. They have concern immediately that it is gone and, if there is no drawback and the railways do not object, I think we should have it.

Hon. Mr. CHEVRIER: Well, Mr. Chairman, if it will be of any use to the committee I think I would perhaps be prepared to leave the section as it is with the words " . . . in accordance with the regulations, orders, and directions made by the board . . . " and add the proviso covering the point raised in the briefs— . . . provided when any tariff—except the competitive tariffs specified in 331 of this Act—is reduced below a toll formerly authorized to be charged under this Act, three days notice will be given and when any toll goes up thirty days will be given.

The CHAIRMAN: The section will stand to be redrafted.

Mr. O'DONNELL: We would not want to lose the proviso to 331(2) which reads:

Provided that the Board may by regulation or otherwise determine and prescribe any other or additional method of publication of such tariff during the period aforesaid.

The CHAIRMAN: Well, the section will stand for an amendment to be drafted. We are agreed on the amendment.

Section 331(1).

331. (1) The Board may provide that any competitive rate may be acted upon and put into operation immediately upon the issue thereof before it is filed with the Board, or allow any such rate to go into effect as the Board shall appoint.

(2) The Board may require a company issuing a competitive rate tariff to furnish at the time of filing the tariff, or at any time, any information required by the Board to establish that

- (a) the competition actually exists;
- (b) the rates are compensatory; and
- (c) the rates are not lower than necessary to meet the competition; and such information, if the Board in any case deems it practicable and desirable, shall include all or any of the following:
 - (i) the name of the competing carrier or carriers,
 - (ii) the route over which competing carriers operate,
 - (iii) the rates charged by the competing carriers, with proof of such rates as far as ascertainable,
 - (iv) the tonnage normally carried by the railway between the points of origin and destination,
 - (v) the estimated amount of tonnage that is diverted from the railway or that will be diverted if the rate is not made effective,
 - (vi) the extent to which the net revenue of the company will be improved by the proposed changes,
 - (vii) the revenue per ton-mile and per car-mile at the proposed rate and the corresponding averages of the company's system or region in which the traffic is to move, and
 - (viii) any other information required by the Board regarding the proposed movement.

Mr. GREEN: I would like to have explanation of the main purpose of this section? Is it to make it more difficult to bring into effect competitive rates and thereby try to meet the present situation under which the competitive rates in the central provinces are so much lower than the rates to be charged in the other parts of the country? Is that the main purpose of this new section 331? Is it expected that the section will bring about that result, that it will do away with some of the present competitive tariffs?

Mr. MUTCH: Is your question that it will do away with some of the required exceptions to some of the competitive rates?

Mr. GREEN: I did not hear you.

Mr. MUTCH: Is your question that the desire of the section is to make it necessary for the railways to sacrifice some of the competitive rates now in existence; is that what you are asking?

Mr. GREEN: I was dealing more particularly with the general purposes of the section for the future. Your question is very appropriate as another question: Can the section be used to do away with some of the competitive tariffs in existence at the present time?

Hon. Mr. CHEVRIER: The only answer I can give my friend (Mr. Green) is that the report at page 86 recommends that certain amendments should be made to the sections in the Railway Act dealing with competition, and the intention of this section is to carry out that recommendation. You ask, is it the intention to do thus and so. It is pretty hard for anyone, let alone one who is not an expert, to indicate what effect this section will have on traffic moving on competitive rates. It is the intention of the section, as indicated in the report, that more information be given by the railways to indicate that the competition exists, that the rates are compensatory, that the rates are not lower than necessary to meet the competition. The Board after hearing the evidence felt that this kind of amendment should be inserted in the present sections—section or sections dealing with competition.

Mr. GREEN: Well, then, in effect, the new section merely requires or gives the board power to require more detailed information from the railways concerning competitive rates?

Hon. Mr. CHEVRIER: Closer supervision, I would say.

Mr. GREEN: Closer supervision. How can the section be used to deal with competitive rates in the central provinces which are considered to be too low at the moment; or, can it be used for that purpose?

Mr. MATTHEWS: The section gives the board power to supervise more closely these competitive rates. Whether it can take rates out and put them in again would certainly be something for the board to determine. I think they would have to look into the present rates and see whether they are compensatory, and whether competition actually exists in the rates now. This section gives the board the power to get that information.

Mr. LAING: I think the idea behind this section is excellent but I do not see how it is going to work out. Now, I have obtained in Vancouver a competitive rate from the railway within one hour because otherwise the stuff was going to move by truck and if it did not move by truck the railway could have it. It comes right back to this, whether they had a reasonable assurance in their minds that I was telling them the truth; and it is always going to be that way because if you go through all this paraphernalia suggested here you won't be able to move the goods at all, it will be three or four weeks after you apply before you get an answer, and that is going to be pretty hard in its effect on the railways. I do not think that in actual practice it is going to work out. The railways have to make the decision as to whether or not I, or whoever applies to them, is telling them the truth. That has been the case in the past and it will be the case in the

future. I think it is just going to be hamstringing the railways if you do what is suggested here, and the result will be that they will lose a lot of traffic which they could otherwise take at a profit. As far as trucks are concerned, we have contract truckers, and in our province we have public carriers by trucks, and they all have to file their rates with the board, and their filing of their established rates with the board is a prerequisite to the granting of a permit. There are instances where they will cut below their filed rates. You ask them to submit proof. They are not going to be able to submit that proof but you get an invoice at the end of the month. The railways will be put two or three weeks behind, and by that time the railways are going to lose out on the business. While this is a very good academic provision I do not think that it is going to be of great deal of use to the railways in actual practice.

The CHAIRMAN: Shall the section carry?

Mr. GREEN: Well, Mr. Chairman, there is a submission on this section in the brief filed by the Canadian Fruit Wholesalers' Association.

Hon. Mr. CHEVRIER: What brief is that?

Mr. GREEN: The brief of the Canadian Fruit Wholesalers' Association. On the first page it says:

The Canadian Fruit Wholesalers' Association is composed of some two hundred and fifty members of the Wholesale Fruit and Vegetable Industry located in all ten provinces of Canada. These members fulfill a vital function in the distribution of these important commodities which are essential to the health and well being of the people of Canada.

This distribution likewise is of paramount importance to the Agricultural Industry, i.e., to the growers and shippers.

Efficient and economical transportation plays a major part within this function, and is of great concern to our members.

Because of the nature of the commodities themselves, the differences in growing seasons and crop yields and the variations in the kinds and quality of supply in the producing regions, together with fluctuations in demand on the consuming markets, a certain degree of flexibility or elasticity in freight rates and rate making procedure is considered extremely beneficial.

It seems to us that some of the proposed revisions to the Railway Act as embodied in Bill Number 12 could have the effect of imposing a serious rigidity upon two very important features of the freight rate structure, both as at present and for the future, at least as they pertain to our industry. We have reference particularly to Sections 331 and 332A and their application to "competitive" and "commodity" rates respectively.

Accordingly it would be our recommendation that proposed Section 331 be amended by changing the subclauses of subsection (2) to read:

(a) the competition actually or *potentially* exists;

And now, the significant change there is that they add the words: "or *potentially*".

And then the other provisions in that brief are the same as are contained in the Act. They do not ask for any very specific information. They just set out the fact that that would involve the elimination of the various subclauses in paragraph (c) of that section of the bill. They say, "(this would involve the elimination of various subclauses in paragraph (c) of this subsection (2))." The same recommendation is contained in the Montreal Board of Trade's submission, at page 2. They say on this section 331:

This Section has to do with the filing of competitive rates by the railways and it seemingly provides discretionary power to the Board of Transport Commissioners which would be satisfactory.

This requirement, however, which would oblige the railways to furnish detailed information to establish competitive rates, would eliminate the possibility of providing such rates when justified by potential rather than actual competition. It is felt that much of the wording of Section 331 (2) is superfluous and that this Section should only provide that the carriers must furnish the Board of Transport Commissioners with such information as would establish that the proposed rate is necessary to meet actual or potential competition and that the rate reasonably might be expected to improve the carriers net revenue.

There again I stress the word "potential"; and I would ask whether there would be any objection to adding in 2(a) after the word "competition actually" the words "or potentially" exists.

Hon. Mr. CHEVRIER: If one looks again at the report of the Royal Commission, the Royal Commission was very clear in its language. It says that—

Mr. GREEN: What page, please?

Hon. Mr. CHEVRIER: Page 86—it says that the board should ensure that such and such be done where competition actually exists, and it does not include the word "potentially". If we were to put the word "potentially" in here, then I think it would be just hamstringing the railways that much more. What is potential competition? Potential competition could be anything. How could they then require the railways to furnish information relating directly to competition? I don't think the committee want that. I hope they do not insist on it. I prefer to see it as it is now.

The CHAIRMAN: Shall the section carry?

Mr. MACDONNELL: On that point I now quote the minister himself. It does seem to me that you are asking the railways here, through the Transport Board, to do something which strikes my layman's mind as being colossal. I think we should remind ourselves—I think it is very important, it is all right to say it is permissible; but we all know the difficulty the public bodies get into if they have before them suggestion—that is what it really is—that they should inform themselves on a whole list of things and then don't do it and then it turns out that perhaps they make a mistake and then anyone can rise up and say to them; parliament told you to do all of these things, parliament is very much wiser than you are; parliament in its wisdom told you to do all these things and you didn't do them. And now, that is a general point. I think some of the detailed comments of these reports might permit us conceivably to say to the committee that—unless the railways themselves disagree with me and say that I am wrong, it would seem to me that the Roman numeral subsections to section (c) going from Roman numeral (i) to Roman numeral (viii), detailing information that may be requested, might be dropped. Now, Mr. Chairman, there is one other question I wish to raise and it relates to the wording at the beginning of the section where it says, "the board may provide that any competitive rate may be acted upon" etc. My understanding now is that the competitive rate may be acted upon but the board can revise it. Am I correct in that?

The CHAIRMAN: Mr. Macdonnell, I would read the section to mean that the board would have full jurisdiction on competitive rates, but if there were a certain type of commodity, like fresh fruit, let us say, where very prompt action has to be taken, the board might decide as to competitive rates on various perishable goods. In that instance, the railways could put in their own competitive rates without consulting the board. As to other types of competitive rates, staples that are not perishable, the board might by regulation indicate as to the type of competitive rate and where all this other information must be filed before a rate is applicable. The whole matter is left entirely, as I read section 2, to the discretion of the board; that the board will indicate by

regulation as to what type of material will be excluded, probably in relation to the type of commodity; and as to whether a rate could go into effect immediately without consulting the board or whether they must wait for the ruling of the board.

Mr. MACDONNELL: You are thinking of the case raised by Mr. Laing, relating to apples.

The CHAIRMAN: Well, Mr. Macdonnell, I also come from a fruit growing district and that is the sort of thing that occurred to me.

Mr. MACDONNELL: We come back to the wording of the section and the fact that it deals with competitive rates. The section provides what the board may do with respect to competitive rates, that it may require a company at the time of applying for a tariff to supply certain information, and then it is left to the discretion of the board, in a case where it deems it practical and desirable, to ask for detailed information; and then that is all in the regulatory provisions which follow that. Now, this section does not say that he must file that, it says that he may be asked to provide that. Does that mean that the board can make a general regulation under the terms of this section and require this information to be submitted with respect to any competitive rate? If so, I should have thought this section then should have said that. I would take the meaning of this section to be that before any competitive rate can be set it must have the approval of the board. Let me put my question again. Does that mean that the board would have to make some general regulation in the terms of this section before any competitive rate can be set?

Hon. Mr. CHEVRIER: This section leaves it entirely to the board. The governing words, I think will be found in 331, (2), following (c) "and such information, if the board in any case deems it practicable and desirable"—that puts the onus on the railways; and if you read on after that, "and such information, if the board in any case deems it practicable and desirable, shall include all or any of the following"—and then there is the group indicated by Roman numerals (i) to (viii); but I would emphasize these words, "shall include all or any of the following"; in other words, the board may require the railways to submit what is asked for in subsection (i), (ii), (iii), (iv), (v), and so on if they so desire.

Mr. LAING: There is a tremendous qualification there. There is also a tremendous amount of direction. I do not see how the railway could have a chance of getting the information asked for in detail in those subsections in time for any rate which might be set to be of use to them in meeting an urgent situation. I am afraid that if you insist on them going to all that detail you will find, before it has been completed, that the business has gone. That has been the case in the past and I think it will be the case in the future. However, I will be prepared to leave it at that, but I think that if the board holds the railways to all these provisions the railways are going to lose a lot of business.

The CHAIRMAN: Shall the section carry?

Mr. GILLIS: Mr. Chairman, on the section; I have been listening to this discussion relating to the section which has been amended, section 330; now, providing the railways and the Board of Transport Commissioners have a serious dispute in the matter of changing rates, fixing rates or making new rates, where does that matter finally rest in relation to the amendment just made, in determining what is legal or lawful? Who makes that decision?

Hon. Mr. CHEVRIER: The amendment we have just heard makes provision for the publication of tariffs relating to increases in tolls, and it simply puts the position back to where it was before. I am not sure that I follow the point that you raised with regard to the section 331.

Mr. GILLIS: Well, you are discussing now the method by which the information necessary in this case in order to arrive at new rates or lower rates. The railways come before the board with the idea of adjusting rates and the tariffs and the Board of Railway Commissioners says you have to file certain information with us; the railways say to the board that this is the rate desired, that these commodities are competitive and we want the rate to meet competition; then the board says you have to prove to us that they are competitive and let us assume that there is a dispute between the railway company and the board in the matter of fixing tariffs or rates.

Hon. Mr. CHEVRIER: Section 330 says that every freight tariff and every amendment, and so on, shall be filed with the board. Is that what you have reference to?

Mr. GILLIS: It is the Board of Transport Commissioners who determine that rates are legal and lawful; is that so, or have the railways the right to fix rates; would that be the effect of this amendment?

Hon. Mr. CHEVRIER: The railways file tariffs, and if there is objection to the tariff the board fixes the legal or lawful rate; the board receives representations, complaints or grievances from the parties affected; and it is the board which decides in the last analysis, what the rate shall be.

Mr. GILLIS: Then the railway has no recourse to a court. You cannot take the Board of Transport Commissioners into a court to test whether it is legal or not?

Hon. Mr. CHEVRIER: An appeal may be taken at any time from a decision of the board on a question of law, to the Supreme Court of Canada.

Mr. GILLIS: That is what bothered me in that last amendment, the fact that the Transport Board would have the last word.

Hon. Mr. CHEVRIER: Well, Mr. Gillis, I can tell you this, that there has only been one appeal to the Supreme Court of Canada from the judgment of the Board of Transport Commissioners in the last—I don't know how many years, but I am looking at Mr. O'Donnell and Mr. Evans; perhaps they could enlighten me on that point—do either of you gentlemen know how many appeals have been taken to the Supreme Court of Canada from decisions of the Board of Transport Commissioners? As I recall it there have been very few such cases.

Mr. EVANS: Very few, yes.

Mr. GILLIS: Then we must assume that their decisions have been phrased in legal and lawful language.

The CHAIRMAN: Shall the section carry?

Mr. GREEN: I want to get that perfectly clear, that under section 331 the railways file a competitive tariff. Once that has been dealt with, once that tariff has gone into effect, then the Board of Transport Commissioners has no further jurisdiction over that tariff. Isn't that correct?

Mr. MATTHEWS: Mr. Chairman, if I might answer that, a competitive tariff is filed with the board, but the board always has the power to review that at any time; they can disallow a tariff at any time if they find it is not a proper competitive tariff.

Mr. GREEN: A competitive tariff is filed and then it can be put into effect immediately?

Mr. MATTHEWS: That is right.

Mr. GREEN: Once that is done the raising of that competitive tariff or wiping out of it altogether is entirely up to the discretion of the railways?

Mr. MATTHEWS: That is so, but as long as the competitive tariff is in force the board has jurisdiction.

Mr. GREEN: The railways are in a position to raise competitive tariffs or to cancel them entirely on their own discretion?

Mr. MATTHEWS: Yes.

The CHAIRMAN: Shall the section carry?

Carried.

Section 332: on this section the minister moved an amendment and at his request, Mr. Green, this section was ordered to stand for today.

Hon. Mr. CHEVRIER: It just included the words "other than competitive rates" in the section; the intention being to leave the question of competitive rates out of section 332, which I think was the intention of the recommendation of the Royal Commission.

Mr. GREEN: I guess that one cannot quarrel with that amendment very seriously, but I would like to point out to the members of the committee what it means. Under the section as it is found in the bill if someone raises an objection to an advance in a tariff, then the onus is on the railway to justify that advance; in other words, they have to show that they have good reason for putting a rate up.

Now, with that I heartily agree, but the minister's amendment is writing in an exception to that provision to say that in the case of a competitive tariff the railways do not have that burden, that they do not have that burden of having to show that their increase in a competitive tariff is reasonable. All of which fits into the picture that the competitive tariffs are for all intents and purposes entirely in the hands of the railways and that they can raise them as they see fit.

The CHAIRMAN: That has always been the law, I think, Mr. Green.

Mr. GREEN: I mean the amendment to this section certainly is in favour of the railways in that they do not have to discharge that onus in raising the competitive tariffs.

The CHAIRMAN: Section 332?

Carried.

Section 332A?

Mr. MUTCH: In the proposed amendment which the minister made at the last meeting I understand that (f) in the bill as printed becomes (g) in the amended bill. I would like to have consideration given to a slight change in the proposed amendment, namely, that in the new (g) which reads:

Any other case where the board considers that an exception should be made from the operation of this section.
that the words "any other case" be deleted and simply read "or where the board considers that an exception should be made from the operation of this section."

Mr. LAING: I can hardly hear you down here.

Mr. MUTCH: I have suggested for consideration that the words "any other case", being the first three words in subsection (g) in the proposed amendment, be deleted and the word "or" introduced. The section would then read:

Or where the board considers that an exception should be made from the operation of this section.

The CHAIRMAN: That is really just an improvement in English.

Mr. MUTCH: I am not suggesting an amendment; I am just asking at the moment if that suggested wording would be acceptable.

Hon. Mr. CHEVRIER: I have no objection to it; it is the same thing as far as I am concerned.

Mr. LAING: Which subsection is it?

Hon. Mr. CHEVRIER: (g).

The CHAIRMAN: The old (f), now (g).

Mr. GREEN: Did you consider the words at the end of the present (e)?

Mr. MUTCH: You are thinking of grammar. All right, to simplify it from a grammatical standpoint I suppose you should change the word "and" in the preceding (e) to "or" and simply delete "any other case."

Mr. GREEN: But that would restrict it. If you put "or" in there it would restrict it. I think "and" is right at the end of clause (e).

Mr. MUTCH: "And where the board considers that an exception should be made."

Hon. Mr. CHEVRIER: I have no objection to that wording, but I do not see what it adds to it and I am perfectly satisfied to leave it the way it is or meet the suggestion of the committee.

Mr. MUTCH: I would like to have it changed.

The CHAIRMAN: Mr. Mutch moves an amendment to subparagraph (g) of 332A, whereby the subparagraph (g) would now read:

"Or where the board considers that an exception should be made from the operation of this section."

All those in favour?

Mr. GREEN: Mr. Chairman, that is not right.

Mr. WHITESIDE: The word "and" would not be governing, then.

Mr. MUTCH: The word "and" disappears anyway. That would apply to (f). This now follows the new (f). I am sorry I did not see that before.

Mr. MACNAUGHTON: There is no "and" before (g).

Mr. LAING: What is the significance of this change?

Mr. MUTCH: Just a change in language.

Mr. LAING: May we hear it again?

The CHAIRMAN: It will require the adding of the word "or" at the end of subparagraph (f) and subparagraph (g) would then read:

"Where the board considers that an exception should be made from the operation of this section."

It is purely grammatical; it does not affect the intent of the section at all, and if anyone is curious the amendment was suggested by Mr. Fillmore.

Mr. ASHBOURNE: It has to be read in conjunction with subsection 4, of which the last words are, "do not apply in respect of—"

Mr. MUTCH: From the standpoint of grammar I will stand on the words.

Hon. Mr. CHEVRIER: That is right—

"in respect of

(e) rates over the White Pass and Yukon route;

(f) rates applicable to movements of freight traffic...or...

(g) where the Board considers...

It reads all right.

The CHAIRMAN: Shall section 332A as amended carry?

Mr. GREEN: Mr. Chairman, could we not have an explanation of the effect that this section 332A is supposed to have on the Montreal-Windsor-Sudbury triangle? It is the belief that because of this section that present block will be done away with and that the rates will be based on mileage, so that if Toronto is nearer to Winnipeg than Montreal the rate from Toronto to Winnipeg will be cheaper than the rate from Montreal to Winnipeg? I see that the Montreal Board of Trade is complaining very bitterly against any such change, but I would like to know whether this section is considered to be wide enough to do away with that complaint?

Hon. Mr. CHEVRIER: Mr. Chairman, I would not attempt to answer that question because I do not know and I do not think anybody else knows. The intention of this section together with the investigation being carried out under P.C. 1487 is to equalize rates and when the board has heard submissions from all across Canada, as I hope they will and as I have expressed the hope several times, I would think that then and only then would it be possible to say whether or not the block which my friend has in mind will remain, will be altered or will be removed in some form or another.

Mr. GREEN: What type of rates would be covered by clause (c) of subsection 2? That point I think is raised in the C.M.A. brief.

Hon. Mr. CHEVRIER: Well, if you turn to page 126 of the report you will see there clause 9, a number of items that are likely to be included, and it reads:

“Consideration of the various complaints and suggestions referred to in the immediately preceding chapter and the recommendations made with respect thereto indicate that substantial progress towards the goal of equalization may be accomplished by the following means—”
(a), (b), (c), (d), (e), (f), (g), (h), (i)—right down to (1); and I think that gives some idea of what the royal commission had in mind.

Mr. GREEN: For example, would it include terminal rates?

Hon. Mr. CHEVRIER: I think terminal rates are included in (f)—“The elimination of the so-called ‘terminal’ class rates in western Canada.”

Mr. GREEN: Clause (c) would cover terminal rates?

Hon. Mr. CHEVRIER: It should cover all of those I would think, Mr. Green.

The CHAIRMAN: Shall the section carry?

Carried.

Section 332(b) stands.

Section 8 of the bill, passenger tariffs?

Hon. Mr. CHEVRIER: This deals with passenger tariffs. There is a special section in the Railway Act dealing with passenger tariffs and since the present freight rate tariffs having to do with everything other than passenger are being dealt with under four heads, the elimination of the passenger tariff is being requested and included under this section.

Carried.

The CHAIRMAN: Section 9?

Carried.

Section 10?

Carried.

Section 11?

Mr. GREEN: Mr. Chairman, in section 11 that section is dealt with at page 7 of the brief of the Toronto Board of Trade and, as I understand it, they are asking that there be an amendment to subsection 2 of the present Act, which is found on the right-hand side of the sheet in the bill and is the only subsection which is retained.

The CHAIRMAN: What page are you reading from of the brief of the Board of Trade?

Mr. GREEN: Page 7.

The CHAIRMAN: And where on the page?

Mr. GREEN: They say:

Section 342. Posting of tariffs. In this section of the bill, clause 8 repeals subsections one, three and four of section 342 of the present Act, leaving subsection two in effect.

I think they are wrong. That is clause 11, not clause 8.

Hon. Mr. CHEVRIER: We are keeping No. 2 in, you know that?

Mr. GREEN: Yes, but—

This provides that: the company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway, for inspection during business hours. This proposed amendment is consequent on the amendment to subsection 6 of section 323 which provides that the board may, with respect to any tariff of tolls make regulations fixing and determining the time when, and the place where, and the manner in which, such tariffs shall be filed, published and kept open for public inspection.

The purpose in retaining subsection 2 of section 342 while repealing subsections one, three and four is not apparent. It is appreciated that the proposed amendment to subsection 6 of section 323 provides that the board may make regulations respecting the disposition and posting of tariffs of tolls for public inspection and it is possible that the board may direct the railways to deposit and keep on file at its stations or offices—

The CHAIRMAN: Is it not all summarized in the last paragraph on page 8:

It is respectfully suggested also that as shippers under the present Act—

Mr. GREEN: Yes, I think that sums it up.

The CHAIRMAN: Would you be good enough to read that to the committee?

Mr. GREEN:

It is respectfully suggested also that as shippers under the present Act have no legal right to receive copies of freight tariffs consideration should be given to incorporating in bill 12 the provision that any person, as a matter of right, upon application to the railways, shall be entitled to receive any or all tariffs, at cost, on a subscription basis, promptly upon their being filed with the board.

Now, that seems to be a reasonable suggestion and I would ask whether—

The CHAIRMAN: Mr. Matthews will speak on that point.

Mr. MATTHEWS: I would say, Mr. Chairman, that that is a matter I would think would be very well left to the board and not written into the statute. I might say the purpose of leaving subsection 2 in the clause is that it deals with the freight classification which is entirely different from the tariff and it was left there just for that purpose. If the committee thought it should come out we could repeal that too and leave that to the board as well.

Mr. GREEN: They also ask in this brief that there should be kept at agency stations on file open to public inspection during business hours (1) the rates classification, (2) the class rates applicable to the classification.

Mr. MATTHEWS: That is something that might very well be left to the board, I should think, under the board's general power to prescribe, regulate and publish tariffs, and that sort of thing. That was the intention of the clause.

Mr. GREEN: Has the board any such regulations at the present time?

Mr. MATTHEWS: I do not think so at the present time. It has been in the statute, you see, and now it is being taken out of the statute and the board will deal with it by regulation.

Carried.

The CHAIRMAN: Section 12—provisions applying to tolls?

Carried.

Section 13—annual returns?

Carried.

Section 14—traffic returns monthly?

Carried.

Section 15—statistical procedure?

Carried.

Section 16—returns privileged?

Carried.

Section 17—penalty section?

Carried.

Section 18 as amended?

Mr. ARGUE: Mr. Chairman, I think the amendment is a great improvement in the section, but there are a couple of questions I would like to ask.

The amendment presented to the committee by the minister reads as follows:

The amounts paid under subsection one shall be applied to a reduction in the relative level of rates applying on freight traffic moving between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the board may allow or direct.

Now, my question is, does that amendment mean that the reduction in rates is to be on traffic originating in eastern Canada only?

Mr. CHEVRIER: I followed your reading of the amendment. Would you please add after the words traffic moving: "in both directions."

Mr. ARGUE: You mean that is your suggestion? Well, that covers my question. It will be applied to traffic moving in both directions, which I believe is preferable.

The idea of this amendment as I understand it is that it will be used to reduce in the main the rates on traffic moving from eastern to western Canada but with the amendment a part of it may be used to reduce rates on traffic moving from western to eastern Canada at the discretion of the board?

The CHAIRMAN: That is right.

Mr. ARGUE: I am wondering if this section as it is now written would allow a reduction in transcontinental rates as well? Are transcontinental rates included in this section? Could they be reduced to some extent or is this for rates other than transcontinental rates?

Hon. Mr. CHEVRIER: I think the matter is left to the board in accordance with the section.

Mr. LAING: The word "relative" was used, was it not?

Hon. Mr. CHEVRIER: Yes—"in the relative level of rates."

Mr. LAING: That means relative level of movement?

Hon. Mr. CHEVRIER: Yes.

Mr. ARGUE: I have another question, Mr. Chairman. Is this section necessary in order to bring about an equalization of rates or does this section mean that if equalization is brought about that there will be some further reduction in rates for the people living on the prairies and a reduction of rates on goods coming in from the east, in order to take care of the extremely long haul? Is this necessary for equalization?

Hon. Mr. CHEVRIER: I think the best way in which I can answer that is to say that the section speaks for itself. It is a subsidy section, it provides for \$7 million to be reflected in the freight rates and the whole bill is an equalization bill. I do not know what the board is going to do when they have completed their equalization which, as the committee knows, might take five years, so I hesitate to answer positively a question of that nature. I think that the

intention in the bill, certainly the intention of the first part of the recommendations of the royal commission is to equalize their rates and beyond that I would not like to go.

Mr. ARGUE: Well, Mr. Chairman, I do not think the minister's answer is too satisfactory. As I understood the statements of the railway companies equalization can be brought about over a period of five years by the Board of Transport Commissioners and I do not think there was any suggestion anywhere that the \$7 million was necessary in order to accomplish equalization.

If I read the report of the royal commission correctly the \$7 million is to reduce rates on the long haul traffic going over this bridge and that if equalization is brought about we hope that this \$7 million will mean a further reduction in rates somewhat in the same way as now provided in the Maritime Freight Rates Act. We hope that this \$7 million will benefit western Canada somewhat in the same way as the Maritime Freight Rates Act has done in eastern Canada.

Hon. Mr. CHEVRIER: In case I did not make myself clear a moment ago, I would not like to leave the impression that this section is going to apply only after five years. It is certainly not the impression I want to convey. This section will apply the moment the bill passes and is proclaimed, so that whether equalization takes five years or not, the reflection of this subsidy will take place immediately.

Mr. GREEN: It really was not meant as an equalization measure, was it?

Hon. Mr. CHEVRIER: I do not think it was, but I hesitate to put myself plainly on record because the royal commission believes that its recommendations should be put into effect and that we did in the bill. The royal commission also considered that there would be an investigation going on by the Board of Transport Commissioners and we think that the two should be read together. That deals with the equalization sections of the bill. Therefore, I hesitate to say positively today—no one I think could say—until its reflection has taken place.

Mr. BYRNE: Then we can assume that the \$7 million will not be used in any way on the transcontinental rates to equalize—

Hon. Mr. CHEVRIER: I would not say that. I think that is a matter which should be left to the board. The board might decide to use it.

Mr. BYRNE: Can they, as a matter of jurisdiction? Would it be possible to apply a subsidy to a competitive rate?

Hon. Mr. CHEVRIER: Perhaps it is unlikely, but I would not like to say positively. I think that is a matter that the board should declare.

Mr. MACDONNELL: I sympathize with the minister's difficulty on equalization. I think the new dictionaries in future will have to have an entirely new meaning for "equalization".

Hon. Mr. CHEVRIER: I think I said in the House it was rather difficult to define.

Mr. MACDONNELL: Is there a contradiction in section 18? In subsection (a) and (b) we read:

That the Minister of Finance may when authorized by the governor in council pay out of the consolidated revenue fund

(a) to the Canadian Pacific Railway Company an amount equal to the annual cost of maintaining the trackage between Sudbury and Fort William—

and so on, and so on, and then it says in (2):

The Board of Transport Commissioners for Canada shall determine the annual cost of maintaining the trackage for which payment may be made under this section and shall fix the extent of such trackage in respect of each company.

Now, I am not saying which company, but it seems to me you should read those two things together. One seems to be a positive statement while the other section seems to leave it wide open.

Hon. Mr. CHEVRIER: With respect to you, Mr. Macdonnell, I think the section means that the Canadian Pacific Railway is to receive the full annual cost of maintaining this 552 miles of trackage subject to subsection 4, and the Canadian National Railways is to receive the full amount of maintaining 552 miles of trackage out of its total trackage of 985 miles, and the Board of Transport Commissioners under (2) is to determine the extent of such trackage; in other words, what trackage is to be covered by the subsidy, whether it will be stations as has been recommended in one of the amendments by the Canadian Pacific Railway, or whether it will be the definition as given in the Railway Act right now, but I think it probably will be just the main lines and side lines and yards and main tracks and passing tracks in yards. I think the board will have to determine what the trackage is.

Mr. MACDONNELL: One further question. How far in fact is it from Sudbury to Fort William? It would not be more than 500 miles?

Hon. Mr. CHEVRIER: It is 552.

Mr. MACDONNELL: Then, perhaps I am answered. It is the exact amount of trackage between those two places?

Hon. Mr. CHEVRIER: Yes.

Mr. Mutch: But trackage is not to be confused with mileage, is that correct?

Mr. LAING: I think this is a great provision and is largely educational. We have had in this country too long the idea that we had two countries—east and west—and I think this pays particular attention to the fact that we are one, east and west, and I think the money should be left to the discretion of the board and if they apply it equally on movements both ways it will do a great deal of good, educationally, throughout the country.

The CHAIRMAN: No. 18 is carried?

Mr. GREEN: Mr. Chairman, on this section 18:

For the purposes of this section trackage shall mean—?
Why is there not some definition of "trackage" included in the bills?

The CHAIRMAN: The intention is to leave it flexible.

Hon. Mr. CHEVRIER: Is that the C.P.R. brief?

Mr. GREEN: Yes.

Hon. Mr. CHEVRIER: Then there are a lot of objections to the C.P.R. brief in that respect. It would include stations. I think that is objectionable and I do not think acceptable.

The CHAIRMAN: Now, we are waiting for the re-draft of the agreed amendment to section 330. Have you it ready, Mr. O'Donnell?

Mr. O'DONNELL: I will read it out to you. It was done very hurriedly. Our suggestion would be that section 330 (1) stand. Then, using some of the language in the old sections 331 and 332, which the committee will find on the page opposite page 4 of the draft bill, we would have the following provisions as subsections 2, 3 and 4—I will just read them:

(2) When any freight tariff other than a competitive tariff reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the board at least three days before its effective date.

(3) When any freight tariff other than a competitive tariff advances any toll previously authorized to be charged under this Act, the com-

pany shall in like manner file and publish such tariff at least thirty days before its effective date.

(4) Competitive rate tariffs shall be filed—

I do not need to read it; it is the provision that is now 332. Subsection 5 would be subsection 2 as it presently stands.

The CHAIRMAN: May I have that, please? I think I had better have this mimeographed in the noon hour and I will have a copy in the hands of the committee immediately when we reconvene at 3.30.

Mr. GILLIS: Mr. Chairman, before you adjourn, I handed you a brief from the British Columbia Fruit Growers' Association.

The CHAIRMAN: It is being printed, Mr. Gillis.

Mr. GILLIS: I notice it is not among the ones you handed to us.

The CHAIRMAN: It is being printed.

AFTERNOON SESSION

—Committee resumed at 3.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. You have before you the amendment which was agreed upon this morning to section 330. The proposed draft which you have before you to section 330 requires three amendments made in it: subsection 4, everything after the word "provided" at the end of line 3 comes out. Mr. Green, have you the new draft before you?

Mr. GREEN: Yes, Mr. Chairman.

The CHAIRMAN: Anything after and including the word "provided" in subsection 4 in the third line, comes out. In subsection 5, in the third line, the word "it" comes out and you substitute, "the tolls therein"; and, at the end of the fourth line the word "rates" comes out and you substitute the word "tolls".

Mr. WHITESIDE: In section 4, everything after the semicolon comes out?

The CHAIRMAN: Yes. And there is one more amendment, please; at the beginning of subparagraphs 2 and 3 add, "unless otherwise ordered by the board".

Mr. HELME: Where does that come in?

The CHAIRMAN: At the beginning of subparagraphs 2 and 3.

Mr. O'DONNELL: That is in connection with the proviso you mentioned this morning in relation to 331, subsection 2.

The CHAIRMAN: Mr. Green moves that section 330 be amended to read as follows:

330. (1) Every freight tariff and every amendment of a freight tariff shall be filed and published, and notice of the issue thereof and of cancellation of any such tariff or any portion thereof shall be given in accordance with regulations, orders or directions made by the Board.

(2) Unless otherwise ordered by the Board, when any freight tariff other than a competitive tariff reduces any toll previously authorized to be charged under this Act, the Company shall file such tariff with the Board at least three days before its effective date.

(3) Unless otherwise ordered by the Board, when any freight tariff other than a competitive tariff advances any toll previously authorized to be charged under this Act, the Company shall in like manner file and publish such tariff at least thirty days before its effective date.

(4) Competitive rate tariffs shall be filed by the company with the Board and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

(5) Where a freight tariff is filed and notice of issue is given in accordance with this Act and Regulations, Orders and Directions of the Board, the tolls therein shall, unless and until they are disallowed, suspended, or postponed by the Board, be conclusively deemed to be the lawful tolls and shall take effect on the date stated in the tariff on which it is intended to take effect, and it shall supercede any preceding tariff, or any portion thereof, in so far as it reduces or advances the tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the Board or is superseded by a new tariff, charge the tolls as specified therein.

Are you ready for the question?

Carried.

Mr. GILIS: Mr. Chairman, would you mind putting the amendment, please?

The CHAIRMAN: Very well. Those in favour please signify? Those opposed?

Carried.

Mr. LAFONTAINE: You are a bit of a stickler on a point of order.

The CHAIRMAN: Now, as to section 332(B), I have one suggestion that I would like to make and it is this; members of the committee are not in agreement on this section. Every member of the committee should have the fullest opportunity of expressing his views but I think that in deference to other members of the committee we should be content simply to express our views once, and I will start wherever you like at the table and go around.

Mr. GREEN: Mr. Chairman, on that point, I do not see any reason why there should be any rule adopted on this occasion merely because we are of different opinions. The committee has been moving along very nicely so far and I think you have given everybody reasonable treatment. I do suggest that we just carry on as we have been doing on previous occasions.

The CHAIRMAN: I have enough confidence in members of the committee to continue to do that, Mr. Green.

Mr. GREEN: Because there may be questions come up which will have to be answered and I do not think that any hard and fast rule should be set down that we should just have so many set speeches and let it go at that.

The CHAIRMAN: All right. Section 332B. Shall the section carry? All those in favour please signify?

Mr. LAING: Mr. Chairman, there is one point to which I would like to direct the attention of the committee in respect to this section and that is in so far as these transcontinental competitive rates are concerned, that in their application to intermediate points they have a very definite relationship to transcontinental rates. There has been a considerable amount of satisfaction so far as those in Alberta one concerned, and I think in Saskatchewan also, with the one and one third provision. I think there is one thing that they have overlooked and that is that any advantages which might accrue through the one and one third provision or any other multiplication of the rate is dependent entirely upon, solely upon, the maintenance of the transcontinental rate; and the Alberta representatives were so happy but they failed to realize that unless transcontinental rates are maintained they have gained nothing at all and have actually lost. Take the case of steel, which has been mentioned, with the one and one third provision it would, were the transcontinental rates maintained today, provide on the one and one-third multiplication basis a very much more favourable rate in Calgary, Edmonton and other points; but if the transcontinental rate does not persist the only rate in the rate book is a much higher rate than they enjoy today; and, in the absence of a transcontinental rate they would

immediately revert to a much higher rate. The same applies to the case of canned goods and other commodities, they are completely dependent on the maintenance of transcontinental rates for any advantage at all over what they are getting today; and they are completely dependent on the maintenance of transcontinental rates for the preservation of rates in as favourable position today as they are. Otherwise, they would be much worse off.

And now, I endeavoured to bring that out when we had Mr. Knowles here, whether the railways would give assurance that they would maintain the transcontinental rate, and all we got in the way of a reply is an indirect assurance in the form of a question as to whether we thought the railways were going to cancel the transcontinental rates. Well, Mr. Chairman, I say that we do not like to have questions answered by asking another question. That question which I asked Mr. Knowles appears on page 211—this was after he had stated that there were only a handful of rates involved in the whole procedure; although he subsequently admitted that that handful of rates involved a great proportion of the traffic with which we were concerned. Now, we are not concerned whether there is a handful of rates, we are concerned as to what volume of traffic is involved, we are concerned with the volume of movement that takes place under these rates. He admitted that a great volume of movement did take place under these rates that he asked to have changed; and, with reference to that part of it, I would like to deal with his reply at page 211, about the middle of the page, where I asked him:

Q. We are concerned with the movement—not the number of rates.

—A. I think you are right about that, Mr. Laing, and as I have stated I certainly think that if the railways cancelled the iron and steel competitive rates they would soon have to put in another low commodity rate in order for the people in Vancouver to draw raw material from the east the same as they do on a lot of other commodities, and I do not think it would be too high either.

Well, there is the suggestion there, that some of these rates below the standard rate are too low to pay the railways and they will have to be raised. The difficulty from our point of view, and from the point of view of all the intermediate territory, the important thing is as to whether or not they are going to retain these transcontinental competitive rates or whether they are going to be dropped and be substituted by some other form of rate. If they are discontinued as transcontinental rates then the rate to intermediate points, as well as to the coast, are going to be very considerably increased; therefore, we are determined that we have got to maintain, from our point of view on the west coast, without great loss to ourselves, the transcontinental rates. Again, and if I am wrong, I want to be corrected. I want to say that our province, and the provinces behind us are the ones who are dependent on the transcontinental rate, and we say that if you are going to take them out and give us the commodity rates you are going to destroy all the advantages to us, and you on the Prairies are going to lose entirely the advantage from the one and one-third application of the transcontinental rate.

We had a brief presented here the other day, for British Columbia by Mr. Brazier and Mr. Glover. They came down here representing the province of British Columbia and the government of British Columbia and they had had a conference with the Vancouver Board of Trade and with officers of the Canadian Manufacturers' Association in Vancouver, and with others, with consumer groups there; and they were very, very much concerned over this fact. I am very sorry that Mr. Brazier is not here today. Mr. Glover is here, and I would hope, Mr. Chairman, if the desire should be expressed that we should call Mr. Glover that you would permit him to be heard, because please believe

me that this to us is a very, very important matter and I think it is important to all the other provinces who up to the present have convinced themselves that there is great advantage in this legislation.

I want to say this that our people in British Columbia were very, very much pleased with the report of the Turgeon Commission and by and large the shippers there, the professional men, the business men and the men who are associated with railway freight rates have expressed their very, very keen satisfaction with that report and they have likewise expressed their keen satisfaction at the determination of the government to implement that report and they are completely sold on this idea that rates shall be equalized throughout Canada whatever that means. Whatever the means of equalization be they feel that action will be taken gradually but as rapidly as we can towards achievement of that idea of equalization, but they do not feel that section 332B, in endeavouring to spell out every detail too accurately that the aim in mind is going to achieve that purpose and it might lose everything that we have at the present time.

Now, Mr. Glover and his associates have worked out a great number of figures here which show that if you are going to maintain the present rates in Calgary and Edmonton the extent to which you have got to raise the transcontinental rates; they have also pointed out that if the transcontinental rates are maintained what it would do towards moving that territory back from the Pacific coast, back into the interior country, and they are very remarkable figures, and we feel that some further security of our position should be forthcoming.

The maritime men have indicated that they are very well pleased with this. I believe that in general that is so. I think they have not secured the binding of as much of the material that goes into a rate as they would think. I think they have bound the 20 per cent discount provision, but I do not think they have bound themselves against any increase in rates. I am reminded that 20 cents off \$1 is 20 per cent, but 20 per cent off \$4 is 80 cents.

The CHAIRMAN: We are discussing 332B, Mr. Laing.

Mr. LAING: We are, thank you. We would like to feel that we are making our contribution towards the general plan of equalization of rates throughout Canada but we do not feel that we should accept something which is of very great disadvantage to us and would mean negating all the advantage that is advanced under the 1½ rule.

On page 213 a most interesting conversation took place between Mr. Evans and Mr. Knowles, and I am reading where Mr. Evans asked Mr. Knowles, just about one-third of the way down the page—Mr. Evans says:

Then, without committing you to more than a personal opinion, would you think it desirable that this section should do something to protect this situation?

In other words, he was referring to the protection of transcontinental rates and Mr. Knowles' reply was:

That is a legal question I cannot answer.

Now, we are not dealing with legal matters when it comes down to paying freight rates—either we are going to pay them on the transcontinental rates or we are going to pay on a much higher commodity rate and to dismiss a question like that by saying that that is a legal matter that he knows nothing about—Mr. Chairman, I am going to confess to you that this is a transportation matter, this whole bill, that I know so little about, I have tried to study the one or two factors which I think are important and are lynchpins of the whole agreement, and I think the maintenance of our transcontinental rates is an advantage that we have, an advantage we have had in the past that we do not want to lose and which sets up the whole basis for that entire intermediate territory on the basis

of $1\frac{1}{2}$, which has made the people in the centre of Canada very happy. They won't be happy unless they realize that $1\frac{1}{2}$ and they cannot realize it without the maintenance of transcontinental rates.

Mr. BYRNE: Mr. Chairman, I am essentially in agreement with what Mr. Laing says—not entirely as this clause affects British Columbia but in that it is a departure from the principle in which transcontinental rates have been established. It is a departure from the entire bill, making a provision which is discriminatory as it affects the far western provinces and I believe will adversely affect Alberta and Saskatchewan when it is finally carried out.

Now, we have been told by the minister and by witnesses that the transcontinental rates must be compensatory. We do have figures. I recall asking one of the witnesses and the minister at one time if they could give us some idea as to how much freight tariff is hauled on the transcontinental rates. We were given a fairly evasive answer which led one to believe that it was unimportant, but in going into the matter I find there are a large number of rates; so if there are a large number of rates and charges being affected then if the rates are to be reduced to the intermediate points there will necessarily be a loss of revenue to the railways.

Now, I have made inquiries and someone—the chairman, I believe—informed me that to make up this loss it would come from the general increase or the equalization of rates—that some of the central provinces may pay a slightly higher rate. Well, that does not seem to be consistent with the explanation that we have had earlier that the transcontinental rates are competitive and must be compensatory, so that they cannot take, as I understand, a block of moneys or savings or an increase in their revenues from the increased rates in the central provinces—they cannot be used to compensate for the losses in the transcontinental rates so that, therefore, there must be some way of making up the loss which the railways will suffer.

For my part it is strictly a matter of principle. Every brief which we have received and almost everyone who has been on the witness stand, with the exception of perhaps the witness from Alberta, feels that it is a departure from the principle of competitive rates. The Saskatchewan witness was not as voluble in his opposition to the present set-up as the witness from Alberta. However, I thought that the witness from Saskatchewan had a firm objective view of the entire situation, if I may say so.

Now, I have said in that every brief that we have received, some of these people have taken an academic interest actually in the $1\frac{1}{2}$ rate, and yet they do feel that this principle is not one that should be incorporated into the Act. It is on that basis that I feel that this section should be objected to.

Mr. GREEN: Mr. Chairman and fellow members of the committee, as the only other member on the committee from British Columbia perhaps I should express my views now so that you will have the whole story from our province.

I am going to divide my submission to you into six different parts and I am going to try to approach it not only from the point of view of a member from British Columbia but also from the point of view of a Canadian, keeping in mind the interest of the whole of Canada—the broad general interest.

The first point I would like to deal with is, just what are these competitive rates? The evidence has brought out very clearly that competitive rates stand in a class by themselves. They are a method provided to the railways to meet competition, whether that competition be by water or by truck or, I suppose, by any other way—for example, I think one of the witnesses referred to market competition. In any event, they are a class of rates set apart and they are practically in the complete control of the railways; they are lower than other rates and the railways can raise them or cancel them at will. The Board of Transport Commissioners, as I understand it—and you can correct me, Mr. Minister, if I am wrong—has no control over whether or not these rates are raised or whether or not they are done away with entirely.

There has been great difficulty caused by the competitive rates. I do not think I am being unfair when I suggest that the competitive rates existing in Ontario and Quebec by reason of roads and waterways have been the means of forcing an unequal portion of the burden of keeping our railways running on the other eight provinces of Canada. That, of course, arises because there are better roads in these two central provinces and more waterways, and that position will be accentuated by the St. Lawrence waterway when it is constructed.

Now, this bill contains a new section 331, which is the section dealing with competitive rates. That is the main section having to do with competitive rates and it provides for a more careful scrutiny of such rates. It tries to tighten up the imposition of these rates, and in my judgment that is a good thing. It is going to be more difficult in the future for the railways to bring in a competitive rate because they are going to have to show several things very clearly—they must show that competition exists and they must show that the rates are going to pay them; in other words, they are not allowed to set a competitive rate which means that they are carrying goods at a loss; and they also have to show that the rates are not lower than is necessary to meet the competition.

Now, those three requirements are set out in section 331, subsection 2, and if they are followed—and I have no reason to doubt that they will be—then they establish a pretty severe code for the railways to follow in order to be able to bring in any competitive rates at all; remember, from now on the railways will have to comply with those provisions before they can establish a competitive rate.

So much for my first point, which is just to sum up what these competitive rates are in the fashion of an amateur. Like the rest of you folks I am just a one-week or two-week expert on freight rates and do not really know very much about them.

Then, we come to the next point—but I do think it is very important that all through this consideration of section 332B that we remember just what competitive rates are and remember this code that there has to be competition, the rates have to pay the railways, and they cannot be lower than is necessary to meet the competition.

Then we come to my next point, which has to do with the transcontinental rates. It is admitted that these transcontinental rates are competitive rates. They should be, in fairness, unless there is some very special reason to the contrary—they should be included under the general provision for competitive rates which is section 331. All the Ontario and Quebec competitive rates are covered by section 331. They do not have any section 332B to apply to them at all, and unless there is some very special reason why these transcontinental rates should be treated in a different way from other competitive rates, then there is not the slightest justification for section 332B.

The transcontinental rates have been of great benefit to the province of British Columbia. I presume they have been of benefit to the other provinces, the eastern provinces in the way of freight moving from the west to the east, a movement incidentally which we hope will increase in the future, but primarily they have been of great benefit to British Columbia in respect of the freight moving to the west.

We get these transcontinental rates because of the water competition primarily, because we are a province facing on the Pacific ocean; also because of the American water competition which is a great deal more substantial than our own Canadian water transportation and also the American railways. There is that competition with the rates on American railways. One of the witnesses mentioned the other day that American lumber was being shipped over American railroads into eastern Ontario and was able to undersell Canadian lumber because it had the advantage of the cheaper American rates.

We get these transcontinental rates because of our geographic position and do not forget, gentlemen, that British Columbia is at least 1,000 miles—the coast is at least 1,000 miles further away from Toronto and Montreal than any other business centre in Canada, so that we always have to pay more freight rates except on those very limited groups under which we are getting the benefit of the transcontinental rates, and even on the transcontinental rates we are paying more now on many of them than people are paying at any of the intervening points.

Freight rates have always been one of our most difficult problems. I think British Columbia and the maritimes have been under the greatest handicap by reason of the freight rate structure of Canada and that is primarily because we are so far away from the large centres of population and the great wealth of the country and the great industrial developments of the country. So that this is not any debating point with us at all. Ever since I can remember—and that is not quite a hundred years but it is getting along—ever since I can remember the people of my province have been frightfully worried about this freight rates question.

Mr. LAING: Always had lawyers on hire fighting them.

Mr. GREEN: The province of British Columbia for years and years and years has retained counsel to fight the freight rates question.

Hon. Mr. CHEVRIER: They should not have to do that and pay large fees if this bill goes through.

Mr. GREEN: Well, Mr. Minister, I only wish that I could agree with you, but I am just afraid that if this 332B goes in that you are going to start another fifty years of fighting for more just rates for British Columbia.

Hon. Mr. CHEVRIER: I do not think so.

Mr. GREEN: You may disagree, but I believe that is the case, and it is not very nice to have a province faced with that problem for the future.

Now, the benefits have been not only to the coastal area of British Columbia, including Victoria and Prince Rupert, mind you, where there are big developments underway—they have a big cellulose plant there, built a year or so ago, and now they are going to have this new huge aluminum plant at a cost of, I think, \$500 million, and it will result in a town of fifty thousand being established near Prince Rupert—the benefit has been to those coastal centres and New Westminster, in fact to the whole of the coastal area of British Columbia, which contain a large percentage of the population, and also to the interior because in the interior, outside the area which gets the special transcontinental rates, they get a cheap rate back from the coast to their interior towns. They do not have to pay the rate across the country; they get the transcontinental rate plus the rate from Vancouver or Prince Rupert back into the interior. So that the whole of the province has been benefited and there are far more people involved here—we have a much larger population than Alberta. The census figures came out yesterday—we have over 1,150,000 people in British Columbia and I think Alberta has about 900,000. There is a difference of 250,000 people. And when you add to the population of British Columbia the population of Manitoba, which is about as much as 700,000—

Hon. Mr. CHEVRIER: More.

Mr. GREEN: Perhaps more—you have a great percentage of people of western Canada who are going to suffer by this section 332B if it becomes law.

As for Saskatchewan I believe that it lies about in the middle—that eastern Saskatchewan will suffer and western Saskatchewan will benefit, so the effect pretty well cancels out in Saskatchewan. My understanding was that Saskatchewan was going to be neutral on this; that they did not care one way or the other. That was not the way the presentation was made but in any event

Alberta is the main province which is in favour of this change and the last thing we in British Columbia want to do is to have a quarrel with Alberta because we feel, and they do too, that if we can work more closely together it would be to the great benefit of both provinces.

So, my second point has been to sum up what the transcontinental rates are and what they mean to us and also what they mean to the prairies. Calgary is getting a cheaper rate because there are transcontinental rates than she would get if she had to pay the ordinary rates across the country. That was given in the first day or two of the evidence, because Calgary, like the interior towns in British Columbia, gets the benefit of the transcontinental rates plus the back haul, so that on these very items here which they are complaining about they are getting a much cheaper rate because of the transcontinental rates than they would get if the transcontinental rates were wiped out.

Mr. JOHNSTON: Highest rates in all Canada.

Mr. GREEN: But you are getting the lowest rates in other things. You have the Crow's Nest rates.

Mr. JOHNSTON: To compensate that you had the the mountain differential removed.

Mr. GREEN: The mountain differential was an additional burden we have had which should never have been imposed.

Then, the third point is to consider just what this section 332B does. It arbitrarily says that the rates in the whole of the prairie provinces and in some cases as far back as Fort William must not be more than $1\frac{1}{2}$ of the transcontinental rates. Now, it does not say that the rates on the lines over which the freight moves shall not be more than $1\frac{1}{2}$; it takes in the whole area. That means that on some of these commodities the rate is going to be the same I think practically at Fort William as it is at Edmonton and as it is for hundreds of miles north to Waterways and hundreds of miles south to Lethbridge. It takes in the whole of the area west of where the dividing line happens to come on a particular rate.

Mr. JOHNSTON: It is the same with the Windsor, Sudbury, Montreal triangle?

Mr. GREEN: Yes, Mr. Johnston says it is the same as the triangle Montreal-Sudbury-Windsor, and he is advocating, with all his great ability, that the Montreal-Sudbury-Windsor triangle be wiped out. The western provinces are asking that the triangle be wiped out and that the freight rates be charged on a mileage basis. However, in the next moment he steps in and says he wants to have a much greater block on the prairies, running for thousands of miles with the freight rate the same for every station in that area.

Mr. JOHNSTON: Well, just a minute.

Mr. GREEN: You can make your own speech.

The CHAIRMAN: Order, order.

Mr. GREEN: It is no wonder that Winnipeg is objecting to that result because I think it is most unfair and it means that there is going to be mighty little reasonable rate structure on the prairies on these items that are affected by this one and one-third—certainly if they are all going to be the same.

Here, the effect on the railway comes into the picture. The railways are faced with that situation—they have to carry their freight to this huge area at a flat rate. Now, what will they do? What would any one of you do if you were deciding what rates were to be charged by the railway? You would change the rate, especially when there is nothing to prevent you from doing it. You have it within your own hands in the case of competitive rates.

Mr. Evans gave figures to show how the Canadian Pacific would be forced, as good businessmen, to raise their rate. He filed a table showing the carload all-rail traffic from eastern Canada to the prairie territory and to Pacific territory, based on four days of the Transport Board's Way bill study for 1949. I do not know on what page that appears in the proceedings, Mr. Chairman, but it shows that the traffic carried to British Columbia territory on these transcontinental rates, brought in \$1,548,365 in a year. That was their estimate of the business that they were doing under these transcontinental rates in British Columbia. The business on the prairie, on which their rates would be in danger if this one and one-third rule were brought in, was nearly ten times that amount. The figure they gave was \$15,501,445, as the business on the prairie provinces which would be endangered by the one and one-third provision.

Now, would they have any justification or could they justify to their directors risking losses on that \$15 million worth of business in order to preserve \$1½ million worth of business to British Columbia. I suggest to you that we have got every reason for fearing that the result will be, if this bill goes through, that the railways will raise those transcontinental rates. Personally, I shall be very much surprised, once this bill becomes law, if British Columbia is not faced with an increase in the transcontinental rates within a matter of days or weeks. If the railways choose to raise them there is not a single thing we can do. We cannot appeal to the board because it is entirely in the hands of the railways.

Then, in support of my complaint about 332B I would like to read from the brief submitted by the Vancouver Board of Trade dealing with transcontinental freight rates. They quote first the recommendation of the royal commission and then go on to cite an extract from Section 332B and then, this is their statement:

"The board"—that is the Vancouver Board of Trade with a membership of over 2,500—"is much concerned, as also appear to be the railways, that if the commission recommendation, as included in Bill No. 12, is adopted, such losses in revenue would occur to the carriers on traffic to intermediate points that it might be found necessary by the railways to cancel these transcontinental rates which have been found so beneficial to Vancouver, Victoria, Prince Rupert and other coastal points affected.

An illustration of this rate situation is shown herewith in the transcontinental rate on cast iron pipe from eastern Canada to named Pacific coast points.

Group 1, including Vancouver, Victoria, Prince Rupert and New Westminster.

"\$1.12 per 100 lbs."—that is our transcontinental rate on cast iron pipe.

"Carload minimum—70,000 lbs."

There is another very important point. This committee had evidence placed before it that while we have the advantage on carload lots of 70,000 pounds, on smaller carloads—I think it was 24,000 pounds for canned goods—we pay more on the transcontinental rate than they are paying at any of the prairie points. It was only on these very large carload lots that we have that advantage.

Then the brief goes on:

(Add 33½ per cent to give the rate to intermediate points.)

That means, of course, that the rate all over the prairie territory will only be \$1.49. They have taken it as \$1.50 as compared with our rate of \$1.12.

The rate analysis from eastern Canada on this pipe and the estimated loss in revenue to the carriers is indicated to just three stations which are sufficient for the purpose:

This is per 100 pounds. The present rate to Dawson Creek, B.C., is \$2.61; to Calgary and Edmonton, \$2.16; Saskatoon, \$1.79.

The proposed rate on the one and one-third basis is \$1.50 to each of those three points—Dawson Creek, Calgary and Edmonton, and Saskatoon—hundreds of miles apart.

The revenue loss per carload to carriers—to Dawson Creek, \$777.00, to Calgary and Edmonton, \$462.00; to Saskatoon, \$203.00—that is as compared with rates being charged at present.

Then it gives the mileage from Montreal to Dawson Creek, 2,655; to Calgary, 2,240 miles; to Edmonton, 2,160 miles; to Saskatoon, 1,829 miles.

The brief concludes:

Should the transcontinental rates be cancelled the commission plan would fail as the intermediate points would be assessed present rates and Vancouver and other coast points be penalized. Another important point—the same proposed rate would be authorized to stations with differences in mileage.

In other words, the second point means that all stations on the prairie would get the same rate of \$1.50.

Now, the Vancouver Board of Trade suggests that the railways will probably raise their rate so that the Calgary rate will be just what it is at the present time. If that is done I am advised by Mr. Glover, the economic expert here for the province of British Columbia, the result will be that on 63 per cent of the items which are under transcontinental tariffs at the present time, British Columbia will suffer adversely—on 63 per cent of all items in that tariff we will have our rates raised.

Mr. GILLIS: Do you mean that the whole province of British Columbia would suffer to that extent, or just a section?

Mr. GREEN: The great majority of the people will suffer to that extent because at least three-quarters of the population—I think probably four-fifths of the population—are in the area which now has transcontinental rates in force.

Mr. LAING: The back haul will be affected too?

Mr. GREEN: The rest will suffer to a certain extent because of the back haul. I guess they will suffer just as much.

Mr. LAING: Not as much as Alberta.

Mr. GREEN: No.

Then, one other point with regard to 332B. On these same items I am advised by Mr. Glover that the dividing line in 13 per cent of the items comes between Winnipeg and Fort William. There will be a flat rate for the whole area for the points between Winnipeg and Fort William right through to British Columbia. 26 per cent comes between Brandon and Winnipeg; 46 per cent comes between Regina and Brandon; and 63 per cent between Saskatoon and Regina.

Mr. WHITESIDE: You have about a 125 per cent there.

Mr. GREEN: I guess that should be Calgary and Regina. The fourth point is that this section 332B is completely out of line with the freight rate policy as announced. It is completely out of line with the so-called equalization policy. Here you have a broad general principle laid down with which we are all agreed, and a broad general policy laid down for competitive tariffs, competitive rates, and here is a glaring exception to the general policy. That point has been dealt with and first of all I would like to read from the brief of the Toronto Board of Trade. I am frank in admitting that I did not expect to get much help from the Toronto Board of Trade but their brief was very comforting. On page 6, dealing with 332B:

Section 332B (2a) Maximum tolls to or from intermediate territory.

This Board questions the advisability of establishing in statutory form the conditions set forth in this proposed amendment. The railways, in our opinion, should be free to meet any competition actual or potential

to Pacific Coast points without being obligated to reduce their rates on such traffic to intermediate territory. It is only by their freedom of action to meet such competition that the railways can protect their revenues and at the same time assist Canadian suppliers to meet foreign competition to Pacific Coast territory. In its conclusions on the subject of competitive rates generally, the Royal Commission says on page 86:—

The Railways should neither be denied the right to meet competition, nor, when once they have decided to publish competitive tolls in one area, be forced by law to apply these same tolls to other regions where competition between transportation agencies is non-existent.

The CHAIRMAN: It is obvious from that presentation, Mr. Green, that the Toronto Board of Trade believes that any resulting loss to the railway through reduction in rates to Alberta will be shared by the province of Ontario?

Mr. GREEN: No, they do not make that point.

The CHAIRMAN: Why would they enter the picture?

Mr. GREEN: It may be they are just trying to give a fair review of the present bill as good Canadians.

The CHAIRMAN: I think they are representing the Toronto Board of Trade.

Mr. GREEN: I think they are being fair.

Mr. MUTCH: I think they might be taking a national viewpoint for once.

Mr. GREEN: As a matter of fact there is another very good reason why the Toronto Board of Trade should take that attitude because they have been dealing with the west coast and they have very large markets on the west coast.

Mr. HELME: They have just as large markets in Saskatchewan and Alberta?

Mr. GREEN: Oh, yes, they would have large markets there.

Mr. MUTCH: We all pay tribute.

Mr. GREEN:

It is a matter of record that the transcontinental competitive rates have been established only because the railways were faced with competition actual or potential.

Members should not think that transcontinental rates were put in to please us in British Columbia. They were put in for the benefit of the railway.

It is therefore reasonable to conclude that if the railways are to be compelled to extend the benefits of these competitive rates to points where competition is not involved a principle will have been established which it is feared would have a marked influence on the future publication of such rates.

How true that is. What will be the attitude of the railways in future about establishing new competitive rates? They are going to hesitate a long time before they give us any new transcontinental rates—just because they are faced with this new principle in section 332B.

Certainly it is difficult to imagine the railways being willing to publish or maintain rates on a competitive basis to the Pacific Coast if they were compelled by statute to depress their rates on the same commodities to inland and Prairie points where the competition did not exist. In such a situation, it is possible that the railways may have to reconsider their position respecting these rates and in that event it is conceivable that they may be forced to cancel the transcontinental rates and probably be compelled also to review the existing system of publishing competitive rates in the light of the possible general effects such legislation may have on these rates.

Then I would like to read from the brief submitted by the Canadian Industrial Traffic League on this same section 332B.

On page 8 of their brief they say:—

Section 332B

Proposed Section 332B is an effort to deal with the problem of applying transcontinental competitive rates to intermediate points in some fashion.

The League is fully aware of the arguments which are set out by the Royal Commission on Transportation at pages 96-101 of its report.

In finding itself in disagreement with proposed Section 332B of Bill 12, the League wishes to emphasize that it is not opposed to the principle of giving some measure of relief to those intermediate points which feel themselves at a disadvantage by reason of any given transcontinental competitive rate.

Our concern is, primarily, with Subsection 2 (b) of proposed Section 332B which would establish a specific maximum to intermediate points over a transcontinental competitive rate.

This subsection would, in effect, decree rates by statute, although such rates are not named specifically.

We have repeatedly in the past warned against the principle of statutory rate-making which the member companies of this League condemn as basically unsound because it does not allow the flexibility which should underlie, to a large extent, a freight rate structure of a dynamic economy. We cannot escape the compelling observation that whenever statutory rates have been made in Canada, they have resulted in disagreements and dissatisfaction, accompanied by constant endeavours to have such rates changed or eliminated altogether.

We believe that it is the sincere wish of all who have an interest in our transportation system to avoid such difficulties which, in our opinion, will almost inevitably arise if proposed Section 332B becomes law.

We strongly recommend to the Committee that further study be given to the method of dealing with this problem which has been evolved in the United States under what is commonly known as "Fourth Section Relief". In brief, as applied to transcontinental rates this requires that the railways make such rates applicable to intermediate points unless the Interstate Commerce Commission grants their application to do otherwise. It is quite conceivable that a complete adoption of the U.S. system may not be found to be feasible.

The League feels constrained, however, to suggest that a modification thereof may be a better solution of the problem than that proposed in Section 332B of Bill 12.

The CHAIRMAN: What other modification could there be?

Mr. GREEN: Well, they suggested there that there should be an improvement.

The CHAIRMAN: Yes, a modification; and I am just asking you, Mr. Green, what other modification could there be than a ceiling of some sort?

Mr. GREEN: As was suggested the other day, I do not see why this section 332B should not be held over at the present time and consideration given to dealing with any rates which obviously are unfair to Alberta probably by some new subsection in the section dealing with competitive rates.

The CHAIRMAN: By a ceiling; what else could be done?

Mr. GREEN: There could be discretion given to the board to deal with these rates.

The CHAIRMAN: To put a ceiling into effect.

Mr. GREEN: No. Here you are putting a broad ceiling over the whole prairie and you are doing it at the expense of the transcontinental rates. Then, the Canadian Fruit Wholesalers' Association brief at page 3:

As to Section 332B dealing with Transcontinental rates, while our interest at the moment may be an academic one, it seems the principle of a fixed percentage as proposed would add to the rigidity of the structure and it is conceivable that developments might demand the application of the same measure to other competitive rates. It is interesting to note that this principle was adopted and later abandoned for some reason by the Interstate Commerce Commission in the United States, some thirty-five years ago. (See 4th Section Order No. 124—June, 1911, etc.) Some other procedure might be preferable.

Then, on this point, this is from the brief of the Canadian Manufacturers' Association at page 14, dealing with the proposed section 332B:

This Section is an addition to the Railway Act and introduces a statutory maximum rate condition to be applied to intermediate points in respect to what is termed "transcontinental competitive commodity freight rates" applying Westbound and Eastbound between points in Canada East of Fort William and Armstrong on the one hand and certain points in British Columbia on the other. The statutory maximum is described in subsections 2 (a) and (b) as an amount which shall not exceed by more than one-third the competitive toll, this toll being that named in tariffs applying to transcontinental freight traffic which is defined in subsection 1 (d) of proposed Section 332B. The statutory maximum was specifically recommended by the Royal Commission and is described in its report as "a logical and simple solution to the matter, one that is readily calculated and applied." It is submitted, with the greatest respect, that while undoubtedly it is simple and can be readily calculated and applied, there is considerable question as to whether or not it is logical having regard to the principle that all rates should be reasonable and free from unjust discrimination or undue preference.

An examination of the report beginning at Page 96 and terminating at Page 101 fails to reveal any basis for the statutory maximum which without such basis might just as well have been set at some other figure.

And we have had no evidence here that the recommendation of the one and one third was suggested to the commission by any witnesses; it was not debated in argument by any counsel appearing before the commission; it simply comes down in their report as their own recommendation.

Then, on these points—you will be pleased, Mr. Chairman, to know that I have just two more points—my fifth point is that this section, as intimated in some of these briefs, is bound to start fresh trouble. You will have noticed here today, Mr. Chairman, that is the essence of the argument which has been put forward by those of us who come from British Columbia. We are very much concerned about it. We have agreed to all the rest of the bill but, as you can see, we are very much concerned about this section. I think that you have the same situation in Manitoba. Surely, it is not wise to put a section in the bill where there is such sincere and deeply held feeling against such section.

Hon. Mr. CHEVRIER: May I ask you this, Mr. Green; will not the trouble be far more serious if you take it out?

Mr. GREEN: I do not think so, because the people who are asking for it to be kept in are much smaller in number; and there is no such section in the law as it stands now; surely, it is not wise to bring in a statute of any kind where

even a very large minority of our people are against it; and in this case you have certainly a very large group of Canadians who are convinced that this is an unfair section; and I would suggest—

Hon. Mr. CHEVRIER: I don't agree with that.

Mr. GREEN: Pardon me?

Hon. Mr. CHEVRIER: I do not agree with that statement.

Mr. GREEN: Do you disagree with my statement with respect to British Columbia?

Hon. Mr. CHEVRIER: I disagree with that statement.

Mr. GREEN: I want to assure you, Mr. Minister, that I am approaching this thing from no political or partisan angle, in no partisan way, in the slightest degree. It is not a political issue. None of us from British Columbia are approaching it from any partisan point of view.

The CHAIRMAN: Before you leave that point, if you don't mind an interruption from the chair; you see, as I view it, we have a group of people in Canada who are very seriously suffering, and the most in the way of risk that we run to right that obvious wrong is a fear on the part of British Columbia of something which in the opinion of many of us will never occur.

Mr. GREEN: You refer to British Columbia and Manitoba.

The CHAIRMAN: You see, we are facing an obvious injustice to Alberta here today, and the only risk we run on this, the only argument we have heard against this section is a fear expressed about something which many of us believe will never come to pass.

Mr. GREEN: Mr. Chairman, the situation is not just as you set it out. In the first place, there are very few commodities being carried through Alberta that are affected.

The CHAIRMAN: If you can sell Alberta on the idea that they are not being harmed and discriminated against; well, I will stop talking—

Mr. Mutch: May I interject to ask you something, Mr. Chairman? As I understand from you, Mr. Chairman, we are legislating here with a view to amending the Railway Act and setting up a national authority on railways; is that what we are doing, or is this for the relief of Alberta? Because, if it is an Act for the relief of Alberta those people for whom I presume to speak at the moment are no more anxious to contribute to the people of Alberta than to anyone else.

The CHAIRMAN: I will let you answer your own question. You have been through all this inquiry. That is your view.

Mr. GREEN: Let us get this thing in its proper perspective. Here is a system of transcontinental rates which it is admitted is competitive. They are few in number and they are going to be even more limited in the future than they have been in the past. These rates are not set up lightly. There will have to be justification for every one of these transcontinental rates. Now, because these rates affect a very few commodities I think it was Mr. Knowles, or somebody else, who said that it affected only four items, only four seriously—in any event the number was under 20, because it was said that it only affected a handful of items. Surely, surely, that is no reason for breaking down the whole system now.

The CHAIRMAN: No, but would you—

Mr. GREEN: Would you mind letting me finish, Mr. Chairman?

The CHAIRMAN: All right.

Mr. GREEN: I do not like to argue against Alberta because I believe they have a perfect right to put their case here; but the fact of the matter is that they get an infinitely greater advantage from the Crow's Nest rate than we get from any transcontinental rate; and you can't have it both ways. I mean, there is no reason why our rate anyway should be broken down because there are only a few items, a handful of items involved; and, certainly, there is no justification whatever for establishing a huge block of the prairie, covering thousands of miles, over which this new rate will be applied, thereby creating the worst kind of discrimination. Why would not Winnipeg object to that? What right have people a thousand miles away, further away from the origin of goods, to get those goods at the same rate as they have to pay for them in Winnipeg? This is a section which is just going to build up more friction in western Canada. It is building up trouble for all of us in that portion of the country. And another thing is this; there have been arguments; oh, you will still have the ships, you fellows can get your goods in by water, you can have them brought in by ships. Well, in Ontario and Quebec that is not the stand that has been taken. They did not put the railway rates up there and say you can still get your goods by truck or by ship. If we are to have a competitive position on the Pacific coast we are entitled all this protection, we are entitled to have the steady protection which we have now in the competition between ships and railways. That is the whole basis of the competition and if that is removed, if you remove one phase of that competition and leave the other, the minute that is done the ships will put their rates up and we will lose our protection and our benefit. We don't think that should be allowed. Conceivably, they might drop their rates to put the ships out of business; they might do that, and within six months from now put in a higher rate because there would be no ships to compete with them.

Mr. JOHNSTON: You don't seriously suggest that the railways would do anything like that?

Mr. GREEN: I presume it is a matter of business on the part of the railways; I mean, we need the benefit of this competitive position on the Pacific coast and we are entitled to the benefit of it; and we do not like being told here by the minister, the chairman, or anyone else that it is all right, we will take away your transcontinental railway rates, you can still get your goods by ship. One of the reasons why we were given these through transcontinental rates is because our businessmen can get their goods much faster by rail even though they have to pay a comparatively higher price, they like to get their goods in that way and save time.

Then, may I repeat, that putting this new section into the Act, changing the present legislation, is simply starting fresh trouble; it is starting internecine war between the four western provinces; and that becomes the most important feature about the whole position.

Then, finally, my sixth point is looking to the future. Probably the future is more important to us than any situation which exists at the present time. If this section becomes law then we certainly will have a great deal more difficulty in getting transcontinental rates than we have at the present time. I doubt very much that the railways will extend their transcontinental rates; and, those on the prairies, as Mr. Evans says, are handicapped by the freight rate structure; for instance, Winnipeg is getting a rate the same as waterways and the immediate result of that is going to be that Winnipeg is going to be down here before the Board of Transport Commissioners every chance that she gets pointing out the unfairness of that situation and demanding that she get some benefit from her geographical situation. You can't expect anything else. You will have protests of discrimination from all parts of western Canada, and the east; and the time

is going to come when there are going to be goods shipped in larger quantities from the west coast to Ontario and to Quebec—for instance, our aluminium which we are certainly going to be turning out in vast quantity within the next four or five years, will be a case in point, and you will have the same difficulty from down here in the east that we will still be faced with in the west. And the freight structure, the competitive freight rate structure, will probably be under attack in eastern Canada just as it will be in western Canada, and it may very well be broken down here.

And now, finally, I would like the committee to understand that I am not just trying to make a case for the sake of making it, I am in deadly earnest about it. We have been glad to support the maritime members and to see that they get the protection that is coming to them under the Act, and I would appeal to them for their support, and to the members from all the other provinces, including the members from Alberta. This difficulty, I think, could be worked out in another way; the problem can be worked out in another way, but it is not being worked out under this section 332B. This may look like a good thing to them today, but it does not work out their problem at all, and further time must be given to the study of their situation and to finding some other method, or working out some other method of dealing with it. I have the temerity to press this committee to recommend an entirely new approach to the problem, and that section 332B be not enacted into law.

Mr. CHURCHILL: Mr. Chairman, I would like to say a few words in connection with this, and I will try to be brief because the ground has been pretty thoroughly covered by the representatives from British Columbia; and, here and there throughout the record of our proceedings Mr. Mutch has presented the Manitoba view. But I would not like to be silent on this point and have it interpreted later that I was in agreement with 332B, because I am not, and I will give you my reasons for being in disagreement with it.

As a non-expert in a committee which seems to be composed of non-experts the conclusion which I have reached from hearing the evidence and reading all the material that has been put before the committee is that this particular section has not behind it the same weight that is behind other sections of the bill. We have in the course of our study here heard questions raised with regard to other sections very properly, I think, and I think it has been said that this bill is drafted in accordance with recommendations of the royal commission based on very extensive investigation. I do not think that that can be true with regard to this particular section because although it is based on a recommendation of the royal commission we have not had any evidence produced to show that the royal commission on this particular aspect conducted a full and complete investigation.

If you will recall the representations made by the counsel for Manitoba, which is on page 137 of our minutes, he said there that:

— . . . the recommendation of the Turgeon Royal Commission (p. 100 of the report) on which the section is presumably based, was not advocated by any person or organization appearing before the commission. The railways did not suggest it as sound from a rate-making point of view. The provinces and other interested groups did not suggest it as sound from either a rate-making or economic point of view. In short, the suggested $1\frac{1}{2}$ rule is entirely arbitrary in character, unsupported by any representation before the Turgeon Commission.

My feeling is this, that had the provinces been aware that a solution like this, along these lines was to be proposed that they would have made effective representation. We are placed in this position now, that this committee is having to consider the representations which would under other circumstances have been considered by the royal commission and without too much repeti-

tion I would remind the committee that the Manitoba representatives, both Mr. Shepard and Mr. Fillmore, drew attention to the violation of principle involved here, which they considered to be objectionable.

Now, coming down to this other point of the actual effect on Manitoba, and without going into it in too great detail—Mr. Green has already pointed out some of the facts—we do not wish to be placed in this awkward position of getting into a controversy with Alberta and yet we are forced to by virtue of this particular clause. There is an inter-relation in the economy of the western prairies and we are dependent upon Alberta for very considerable help in some of their products. We do not want to be placed in the position that our economy is disturbed by something in the freight rates structure which, in the opinion of the Manitoba representatives, is not advisable, and that there will be a disturbance to Manitoba's economy I think has been pointed out in the briefs already submitted.

Earlier I thought that the rates that would be affected by this section were so few in number that we need not pay too much attention to them. As evidence was subsequently produced we discovered that although they were few in number the volume of traffic was considerable and then we discovered that in the question of the steel, a very great influence would result from this particular section.

Well, I took the trouble to look up just rather hastily the situation in Manitoba with regard to steel and our manufacturing industries there, and in the Canada Year Book of 1951, which unfortunately shows figures for 1947—and they are obviously a bit out of date—nevertheless, I discovered that there are 10,000 people in Manitoba who are engaged in the steel industry, that is, the manufacture or distribution of steel products, that the gross annual turnover or volume is in the neighbourhood of \$55 million, and recent surveys of the industrial situation in Manitoba indicate a very considerable development industrially and one of the latest industrial plants to be erected in the neighbourhood of Winnipeg is valued at \$500,000—a new industry being placed there.

Now, if the freight rates on steel and its products are going to be affected adversely to Manitoba, as I think has been abundantly shown, this is obviously going to have a bad effect on Manitoba and the city of Winnipeg and it has been pointed out that the city of Winnipeg and its surrounding area comprises half the population of Manitoba. The population of Manitoba is now 770,000 and half of that is to be found in the neighbourhood of Winnipeg; and the industrial development of our province is of primary concern to us at the present time. It is exceeding in gross products annually our agricultural produce and we are naturally intensely interested in anything that might affect that industrial development.

Now, section 332B is going to impose some limitation on that industrial development and, therefore, Manitoba and Winnipeg obviously have to oppose it. I think it was Mr. Mutch who pointed out two or three days ago that Manitoba was likely to be caught in the middle in this particular conflict. Well, geographically we are in the middle. We do not want to be caught in a "squeeze play" on something of this nature. If 332B comes through as it stands, if it results in a situation that will place steel further west at the same rate that we would get it in Winnipeg, obviously we would be placed at a considerable disadvantage both with regard to the manufacturer and producer in the east and the prospective manufacturer and producer out in Alberta.

I would just in concluding—because I do not want to take up the time of the committee to any great extent—I would suggest that on page 125 of the report of the royal commission, where it is discussing the question of equalization at the bottom of that page, paragraph 5, it says:

The objective of equalization is something which can only be attained after considerable study by the board and by the railways. Undoubtedly many serious problems are involved, for example the effect that the proposals may have on railway revenues...

And then I would like to emphasize the next words:

—on established industries and on trade and market patterns. All of these things are matters of the utmost importance.

We feel that section 332B is going to have an adverse effect on established industry and on trade and market patterns in so far as Manitoba is concerned and that certainly much greater consideration should be given to this particular problem before any substantial change as envisaged by 332B is incorporated.

As the minister said this morning, the whole bill is an equalization bill and I thought that was a good summary of it and I copied it down on bill No. 12 in front of me. Well, if it really is equalization, let us not, when we are making a broad equalization pattern across Canada impose a measure of disequilibrium in so far as Manitoba is concerned.

Mr. ARGUE: Mr. Chairman, I only have one or two words to say on this section. I am in favour of the section. I believe that it will help the province of Saskatchewan and I think it is perfectly true, as has already been stated to this committee a number of times, that the $1\frac{1}{2}$ provision is a compromise, that it does correct to some extent the anomaly that had existed in the past whereby cities like Edmonton and Calgary have paid rates twice as high as the city of Vancouver.

If I had my own personal way about the section I would personally like to see the one-third removed so that the rates are parity rates and I believe the time will come when Canada follows the example of the Interstate Commerce Commission and makes intermediate rates no greater than the transcontinental rates. But because the royal commission has given this matter great consideration and arrived at what I believe is a fair compromise I certainly am not going to press for any change in this provision.

Some have said that this new 332B gets away from the principle of equalization. Well, it may not mean equalization but it seems to me much more fair if a ceiling is placed on rates throughout the west than if the rates are left as they are at the present time.

I believe that the concern expressed by the Vancouver Board of Trade and by members of parliament representing constituencies in the Vancouver area are not well founded. I believe that competition from the United States lines and competition from boats will maintain transcontinental rates. I think if the committee will turn to page 100 of the report of the royal commission it will show that the commissioners too felt that way. I quote the third paragraph:

As long as the competition exists the railways should be permitted to meet it. But when meeting the competition creates anomalies of the character indicated above and causes such long standing grievances, it is desirable that a solution be found which will enable the railways to meet the competition and at the same time eliminate, at least to a substantial degree, the anomalies created.

According to the royal commission they believed that the $1\frac{1}{2}$ provision would allow the railways to meet competition and at the same time to remove the anomalies created which have resulted in rates to Edmonton and Calgary and other points, as set out in the table on page 101, being in some instances twice as great as the rates to Vancouver.

I believe with the Saskatchewan submission that this is a good provision. I believe that it will help the province of Saskatchewan. One British Columbia member said that it would not be very helpful to Saskatchewan. Well, I

believe the breakdown is not as has been stated mainly in the centre of Canada, but the breakdown in the rates in this provision will come much before then. The royal commission on page 101 had this to say:

The provinces east of Alberta will likewise benefit from the proposal which is outlined above, since the maximum rate to all points between the point of origin and the Pacific coast area will be subjected to the ceiling of 133 $\frac{1}{3}$ per cent of the transcontinental rate.

Because I feel that the transcontinental rates will be maintained and because I feel that this provision is of benefit to Saskatchewan I support the present section.

The CHAIRMAN: Are you ready for the question?

Mr. LAING: Mr. Chairman, before we proceed I would like to establish the fact that a very large number of people in Canada are concerned over this and we only have to look at the briefs that came in today.

We have a brief from the Federated Shippers Association of British Columbia. This is a federation of shippers that uses the railways to transport over \$20 million worth of fruit every year. They are dissatisfied with 332B. Their dissatisfaction comes largely from the demarcation of the boundaries more than anything else.

The Vancouver Board of Trade with 2,500 members, embracing most of the industries in Vancouver, states that:

Should the transcontinental rates be cancelled the commission's plan would fail and intermediate points would be assessed present rates and Vancouver and other coast points be penalized.

That is a particular point I wish to make to my friends from Alberta and Saskatchewan because I think they are overlooking the fact that any advantage that they might have hinges directly on the maintenance of the transcontinental rates; otherwise the 1 $\frac{1}{3}$ provision is of no benefit at all.

I take it from page 211 that Mr. Evans has served notice that as far as iron and steel is concerned we are not going to have a transcontinental rate. That is what I would read into it. He says we are going to have a low commodity rate and it won't hurt us much.

Now, the commodities which move to the Pacific coast and in which we are particularly interested from the transcontinental point of view are the important commodities in which Alberta and Saskatchewan are interested from an intermediate point of view, and they will be affected materially if you remove the transcontinental rates.

The CHAIRMAN: You have advanced that argument before, Mr. Laing.

Mr. LAING: A good argument can stand repetition, Mr. Chairman.

The CHAIRMAN: Well, we all have other work to do.

Mr. LAING: The Canadian Manufacturers' Association says:

It will thus be seen that under the legislation as proposed, traffic from eastern territory to interior rail points in British Columbia will be treated in different ways depending upon the more or less fortuitous circumstances of whether there is at present published a competitive toll from eastern territory to such interior British Columbia destinations.

Again pointing out the necessity of maintaining the transcontinental rates.

The Montreal Board of Trade who are interested in the west because it provides a market for their products say:

As with other shippers, there is no opposition to any effort to provide lower rates to any intermediate points. It is felt, therefore, that the transcontinental competitive rates should have intermediate application

but that should the carriers require relief from this intermediate application, then such relief should be effected by application of the carriers to the Board of Transport Commissioners rather than by statutes as this section would require.

That is advancing the system operative in the United States under the Interstate Commerce Commission Act. It is referred to, I think, as fourth section relief, and it says:

Upon application to the commission such common carriers may in special cases after investigation be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property.

Now, we had some evidence the other day that in the United States they carried on on a basis of no higher than the transcontinental rates. Now we find that is not correct because we find there provision where the carriers can go to the I.C.C. and ask for a rate higher for an intermediate point if they require it. That is a principle I think that was advanced by the Canadian Industrial Traffic League and I am going to say in respect of this section I was very impressed with their recommendation and I think it is unfortunate that they were not called before the committee as well as being asked to provide this brief of theirs. After all, these are the people who do all the transaction of business with the railways and I think they have given us a brief that is dispassionate and professional.

The Toronto Board of Trade says:

The railways, in our opinion, should be free to meet any competition actual or potential to Pacific coast points without being obligated to reduce their rates on such traffic to intermediate territory.

The Canadian Fruit Wholesalers Association says:

As to section 332B dealing with transcontinental rates, while our interest at the moment may be an academic one, it seems the principle of a fixed percentage as proposed would add to the rigidity of the structure and it is conceivable that developments might demand the application of the same measure to other competitive rates.

So that there is a very wide body of opinion today in the country—and I think it is informed opinion—that does not like 332B and we have our fears about it on the Pacific coast and we are of the opinion, sir, that if we lose out on our transcontinental rates Alberta and Saskatchewan lose out, too, and that is the submission that we wish to make.

The CHAIRMAN: Ready for the question?

Mr. JOHNSTON: I just want to say one word. I can assure you I am not going to take very long.

I think the committee is quite familiar with the stand that Alberta is taking on these bills, but there is one erroneous statement I think should be corrected. It has been stated two or three times here that no province has referred to this $1\frac{1}{2}$ rule before the royal commission. Now, that is not true. Alberta did make a representation before the royal commission pointing out very clearly that what we should have was a parity. That is not the $1\frac{1}{2}$ rule at all but we think we are entitled to a parity basis.

I cannot see for the life of me, Mr. Chairman, why Alberta and Saskatchewan and the western part of Manitoba should be put in the position, as has been clearly pointed out here, where we are discriminated against; that is the only objection we have. It is not because of the lowering or raising of the rates; it is because of the discriminatory attitude of those rates.

Now, I might point out our position in some detail, but I am not going to take up the time of the committee to do that. You will find a reference to our position at pages 99 and 101 of the proceedings. Most of the argument which has been submitted here this afternoon, in my judgment at least, has been to show the effect of discriminatory rates, and the effect that they will have on our economy. Well, Mr. Chairman, I wish to tell you that in our province, in fact throughout the prairie provinces, we are interested in developing our own manufacturing facilities and meeting our own needs, and we are no longer content to be considered simply as a market for the manufacturers of the east. We want to build up and develop our own industries, not only in Alberta but in Saskatchewan as well; in fact, I understood that one of the purposes of the royal commission was to study ways and means of developing the industrial potentials of the whole of Canada. Mr. Chairman, I appeal to every one here to support in principle the legislation now before us. As we view it, we would rather put our trust in the recommendations of the royal commission which take form in this legislation; we would rather put our trust in legislation which arises out of the recommendations of the royal commission, than be dependent entirely on the discretion of the Board of Transport Commissioners, as has been the case in the past. And now, since this bill embodies the recommendations of the royal commission, we intend to support it.

The CHAIRMAN: Shall the clause carry?

Mr. MACDONNELL: I want to ask one question, Mr. Chairman. If I understand correctly, in another section of this bill guidance is given to the Board of Transport Commissioners but still a good deal of latitude is left to them. This seems to be the one case where a rule is laid down. Secondly, since reading this report, it is not just clear how this one and one third figure was arrived at. I don't suppose it would have made very much difference if the figure had been 40 per cent or 50 per cent, it would still have been a matter of arithmetic; but what I want to ask is this: is it absolutely essential in this case that discretion must be removed entirely from the Board of Transport Commissioners? Is all hope to be abandoned that this cannot be worked out over the months or over the years by collective bargaining; or, must we take as final the decisions of the board in these cases? Are we to assume that the law is to step in in an absolutely fixed manner to deal with it?

Hon. Mr. CHEVRIER: I think the chairman has already answered that by saying that it is not feasible; but the question is so long that it is pretty hard to answer it to your satisfaction. All I can say is that the commission felt that there was discrimination in the province of Alberta, and to a certain extent in Saskatchewan, and that this was the only way in which that could be eliminated. And now, we have been asked if there is any other method whereby it can be amended so as to give discretion to the board. We know of none; and, certainly, our advisers say they know of none; and they are following the practice elsewhere, in the United States in particular; and their view is that this is the method by which to deal with that discrimination.

The CHAIRMAN: Are there any further questions? All those in favour of the section please signify? Those opposed?

Carried.

Shall clause 7, as amended, carry?

Carried.

Now, gentlemen, we have the matter of the amendment to section 3, which was moved by Mr. Lafontaine. Mr. Lafontaine had to leave this afternoon and he has instructed me to withdraw his amendment; and the reason that it is being withdrawn is because of the fact that it involves additional expenditure, and

this committee is not empowered to pass such a section; so, after having consulted with the law officers of the crown I am suggesting that we should report as follows:

With respect to clause 3 of the bill, as any revision of the salaries indicated therein would, to meet the views of the committee, result in an increased charge upon the public, your committee feels that it has no option, under the rules of the House and the terms of its order of reference, but to report the clause without amendment. The committee would, however, recommend that the government consider the advisability of amending the said clause 3 to read as follows:

3. Subsection one of section twenty-six of the said Act, as enacted by section two of chapter sixty-six of the statutes of 1947-48, is repealed and the following substituted therefor:

26(1) The chief commissioner shall be paid an annual salary equal to the salary of the president of the exchequer court; the assistant chief commissioner shall be paid an annual salary of fourteen thousand dollars, the deputy chief commissioner thirteen thousand dollars, and each of the other commissioners shall be paid an annual salary of twelve thousand dollars.

Would somebody please move the adoption of the report?

Mr. MACDONALD: I would so move.

The CHAIRMAN: It is moved by Mr. Macdonald that the report be adopted. Are you ready for the question?

Mr. GREEN: I would like to have it understood that it is passed "on division".

The CHAIRMAN: Yes, "on division".

Those in favour please signify? Those opposed?

Carried, on division.

Shall the title carry? Carried.

Shall the Bill, as amended, carry? Carried.

Shall I report the Bill, as amended? Carried.

There is one other matter. Mr. Ashbourne asked Mr. Evans for the miles of road operated by the Canadian Pacific Railway, divided by provinces. I now have that, Mr. Ashbourne, and I will table it.

Mr. ASHBOURNE: Mr. Chairman, I think I asked you for that, I do not think I asked Mr. Evans particularly. I will be glad to have it.

The CHAIRMAN: I will now table the answer as given to me.

CANADIAN PACIFIC RAILWAY COMPANY

Miles of Road Operated at December 31, 1950

Nova Scotia	304.1
New Brunswick	592.3
Quebec	1,610.0
Ontario	3,270.7
Manitoba	1,761.5
Saskatchewan	4,520.1
Alberta	2,620.4
British Columbia	2,007.9
Maine and Vermont	324.0

17,011.0

NOTE.—Miles of road operated are first main track only and do not include other main track, industrial track or yard track and sidings.

SOURCE.—Annual Report to Dominion Bureau of Statistics, Schedule 25B.

Before we adjourn may I say that we will need to reprint the bill as amended.

Gentlemen, before we adjourn I do want to express my deep appreciation to all members of the committee for the very co-operative way in which we have been able to carry on this rather contentious and difficult reference.

Mr. MUTCH: Mr. Chairman, before we adjourn I should like—and I think I speak for all members of the committee—to say to you that it is no light task to guide a committee which has to consider problems about which very few members of the committee have very much knowledge—a position which you have claimed to have shared yourself. Having had some experience as chairman of committees I would like personally to commend you for the restraint which you have shown at times in intervening in the debate and to thank you for the impartial way you have listened to our representations.

The CHAIRMAN: Thank you very much, gentlemen.

The committee adjourned.

Appendix "A"

CANADIAN MANUFACTURERS' ASSOCIATION

*Submission to the House of Commons Special Committee on Railway Legislation
in respect to Bill 12 an Act to Amend the Railway Act*

The Canadian Manufacturers' Association makes this submission in respect to House of Commons Bill No. 12 An Act to amend the Railway Act after most careful consideration and believes that the changes in certain clauses of the Bill hereinafter mentioned will, if adopted, establish such powers and obligations on the Board of Transport Commissioners and the railways as will assure the maintenance of reasonable services and rates free from unjust discrimination or undue preference, the keystone of regulatory legislation established in the public interest as exemplified by the Railway Act.

In making this submission, the Association speaks for its members collectively, not on behalf of any individual member, and is primarily concerned in matters of general principles affecting rates, charges and practices of transportation companies.

The number of large and small manufacturing concerns in the membership of the Association is slightly over 5,100 located in towns and cities from Coast to Coast in Canada. These members are vitally interested in the maintenance and development of a transportation system which will afford its members reasonable service at reasonable rates free from unjust discrimination or undue preference. This interest is based upon their needs respecting the movement of raw materials into their plants and finished products to their customers in Canada or for export to other countries. The products involved form a large portion of the freight traffic handled by railway companies in Canada.

The Association has an established policy on transportation regulation, and has on a number of occasions made representations to the Federal and Provincial Governments, and presented a statement on its policy to the Royal Commission on Transportation in the submission made on behalf of the Association. It is not our purpose to again submit at this time the statement which we believe is fairly well known, but, as a matter of interest, the four basic principles of that policy are hereinafter stated:—

1. That the inherent advantage of each class or type of carrier should be recognized and preserved.
2. That each carrier must secure an authorization, sometimes called "A Certificate of Necessity and Convenience," before it may operate a service.
3. That the services and rates of such carriers must be reasonable and free from undue preference or unjust discrimination.
4. That the administrative tribunals or boards should be clothed with adequate powers, staffed with experienced personnel and be independent in dealing with matters falling within their jurisdiction.

The present Railway Act gives expression in statutory form to the policy which the Association has followed respecting transportation regulation and Sections 276, 312, 314, 316 and 325, among others, may be cited as examples.

The proposed measure, House of Commons Bill No. 12 An Act to amend the Railway Act, now being considered by your Committee is designed, we understand, to implement some of the recommendations made by the Royal Commission on Transportation. Consequently, having in mind the activities

of that Commission, the lengthy hearings, the evidence and argument before it, one must approach this legislation in a spirit of co-operation, pointing out such matters as are sincerely believed to require adjustment so that the result will be an amended Railway Act that will assure the maintenance of reasonable service and rates free from unjust discrimination or undue preference. It is in this spirit that the Association's Transportation Committee has given careful study of this proposed measure, and the submission which is now being made is designed to present those changes which the deliberations of the Committee and a sub-committee believe to require your consideration.

In presenting the changes which it is believed should be made, the submission is arranged so that the clauses and proposed Sections will appear in the same order as in the Bill. The order of arrangement and the method of stating the text is designed to provide a convenient and, it is hoped, concise arrangement for your Committee's consideration.

7. Proposed Section 328.

In subsection (4) the definition of a competitive rate is stated, and in view of a later amendment dealing with competitive rates, it is submitted that this definition should be changed to read as follows:—

- (4) A competitive rate is a class or commodity rate that is issued to meet *the exigencies of competition*.

7. Proposed Section 329.

Subsection (b) provides an additional form of specifying class rates being a point to point system as contrasted with the mileage basis for all distances expressed in blocks or groups, etc. In the House of Commons Bill presented at the last session (No. 377) subsection (b) read as follows:—

- (b) may, in addition, specify class rates between specified points on the railway.

The measure at present being considered (Bill No. 12) is changed to read, as follows:

- (b) may, in addition, specify class rates between specified points on the railway *which rates may be higher or lower than the rates specified in Paragraph (a)*.

It will be seen that the words underlined have been added.

There is some doubt as to why these words have been added, although, as they stand, it would appear they intend to permit the establishment of point to point rates higher or lower than the uniform mileage class rate scale mentioned in subsection (a). It is true that under the present system of stating class rates in tariffs, aside from the standard mileage class rate scales, grouping of origin or destination territories or both is used in stating the point to point class rates, as a result of which there is a variation above or below the rates which would result if the mileage scale was strictly applied from each point of origin to each point of destination.

In view of the national freight rate policy stated in proposed Section 332A, it is submitted that the provisions of subsection (b) of proposed Section 329 should be further examined with the view to determining from those who drafted the subsection what is intended and whether or not, as worded, it would prejudicially affect the national freight rates policy in respect to uniform class rates.

7. Proposed Section 330

This Section contains certain parts of present Section 331. An important provision of present Section 331 contained in subsections (2) and (3) has not, however, been included in the proposed Section 330 nor in any other part of the proposed measure. The present provision is that pertaining to statutory

notice of reductions and advances in freight rates, the period of time being three (3) days for reductions and thirty (30) days for advances. The "special" tariffs mentioned in present Section 331 (2) and (3) would fall within the new classification of tariffs comprising "Class Rate" "Commodity Rate" and "Special Arrangements" tariffs. See proposed Section 328 (1) (a) (b) and (d).

At present the Board of Transport Commissioners under regulations (Tariff Circular No. 1) prescribed by General Order No. 669 dated December 21, 1944, on the matter of statutory notice, at Regulation 3 (2) provides: "Unless otherwise specifically authorized by the Board and subject to the undernoted exceptions, schedules must be filed to be effective on not less than thirty (30) days' notice for increases, and three (3) days' for reductions or other changes." There then follows a list of exceptions where certain tariffs or supplements to tariffs may be filed without notice or on shorter notice than specified in the foregoing regulation.

In proposed Section 330, it is appreciated that this matter of notice is dealt with in subsection (1) as a matter that is to be "in accordance with Regulations, Orders or Directions made by the Board." While it may well be that the Board would continue its present regulation, it may be observed that it is at present established under a statutory condition found in present Section 331, and with the statutory condition removed, there is no doubt but what it would be possible for interested parties to endeavour to have the matter of notice changed.

The present statutory form is considered to be an important matter to the users of railway services, and was established in the public interest. It provides a reasonable time, in respect to increases at least, within which shippers may study proposals filed in tariff form by the railways with the Board, and take such action as they consider desirable when they may have objections to what has been proposed.

It is submitted that the statutory form is in the public interest and should be continued in respect to "Class Rate" "Commodity Rate" and "Special Arrangements" tariffs. It may be observed that the elimination of the statutory form at present shown in Section 331 (2) and (3) of the proposed measure was not recommended by the Royal Commission on Transportation.

7. Proposed Section 331.

This Section deals with the filing of competitive tariffs and the submission of information by the railway companies respecting such tariffs as may be required by the Board of Transport Commissioners setting out in detail certain specific information which the Board may require. At present the conditions are set out in Section 332 of the Railway Act and Rule 17 of the Board's Rules and Regulations governing the filing of tariffs (Tariff Circular No. 1) prescribed by General Order No. 669 effective May 1, 1945.

In comparing the present and proposed conditions, it is noted that under both the competitive tariff is filed specifying an issue and effective date or, under the Regulations, permitted to become effective before filing provided the definitive tariff is promptly filed with the Board.

In effect it might be said that there is no real change in principle as the Board today has adequate powers to require all the information detailed in the proposed Section 331. However, the specific statement of information which the Board may require in the Act may tend to restrict and delay the establishment of bona fide competitive rates to meet the exigencies of competition.

It is respectfully submitted that a general statement setting out the Board's powers to require a company issuing a competitive rate tariff to furnish such information as will satisfy the Board as to the bona fides of the action taken would be sufficient for the end desired and could be accomplished by the amendment of subsection (2) to proposed Section 331 to read as follows:

The Board may require a company issuing a competitive rate tariff, to meet the exigencies of competition, to furnish at the time of filing the tariff, or at anytime any information required by the Board.

The foregoing amendment, if adopted, would make unnecessary the details set out in subsections (a) (b) (c) and (i) to (viii) in subsection (2) of proposed Section 331.

7. Proposed Section 332A.

This Section is an addition to the Railway Act. It states a national freight rates policy placing an obligation upon the railways to, so far as is reasonably possible and subject to certain exceptions, establish, in effect, a uniform system of rates. The Board is given power to take such action as may be necessary to see that the national policy is followed, specific features of the rate system being specifically mentioned, such as uniform scale of mileage class rates and uniform scale of mileage commodity rates. In addition the Board is also authorized to disallow tariffs or tolls which may be contrary to the national freight rates policy, and is authorized, when it considers it necessary, to add to the exceptions list in subsection (4) of the proposed Section.

At the outset it may be said that the national freight rates policy stated in subsection (1) of the proposed Section is in line with the goal observed in the trend in decisions of the Board of Transport Commissioners in General Freight Rate Cases over a long period of years where reductions and differing increases have been prescribed to be applied in the various territorial rate areas, particularly as between the East and the West. It is true, of course, that the General Freight Rate Increase Cases which have been decided as revenue cases since 1948 to the present have not followed the previous trend but have authorized a uniform percentage increase to be applied to all of the rates within Canada.

In the first case of this series originally known as the 30 per cent increase, in respect to which a 21 per cent increase was authorized by the Board, a series of hearings were held throughout the country designed to give interested parties an opportunity to present their views respecting the application and the evidence taken developed certain facts designed to show that the use of a uniform percentage increase would affect long hauls, certain low valued commodities and would widen the spread between territorial rate levels which many of those appearing before the Board contended constituted unjust discrimination. While the Board did not in its decision make any specific finding in these matters but allowed the application of the percentage increase (21 per cent) "on all freight rates across the Board," the evidence placed before the Board again brought to the attention of the railways and others interested the need for some adjustment which would as near as possible remove the complaints which have been noted in many of the General Freight Rate Cases over a long period of years.

The railway companies in their application for an increase of 20 per cent in freight rates for the first time indicated to the Board of Transport Commissioners that they were considering a plan designed to establish a uniform system of class rates and mileage commodity rates. Thus the railroads were apparently convinced that some action of this character should be taken, and having in mind the previous (prior to 1943) trend of the Board of Transport Commissioners' decisions, the possibilities of reaching the goal desired seemed much better.

The Royal Commission on Transportation received evidence from the railway companies further developing their plan and giving some detail, although the actual scale of class rates and scale of mileage commodity rates had not been developed before the Royal Commission concluded its deliberations.

The report of the Royal Commission recommend "a uniform rate structure that as far as may be possible will treat all stations, localities, districts and regions alike." The quotation just made will be found in the Commission's report on Page 127 at Item 10. On that same page at Item 11 the report stated:—

With the uniform equalized class and commodity scales so constructed and put into effect within a reasonable period it may be possible to use these scales as a pattern for the elimination of the several other anomalies which exist in the numerous special freight tariffs between specified points. It may be expected that such special freight tariffs will be brought into uniformity in so far as this can be accomplished having regard to all proper interests.

It is at once appreciated that while the principle of uniformity is a goal to be sought, even the Royal Commission after most extensive hearing surrounded that principle with such words as "as far as may be possible," and indicated their appreciation of the difficulty of establishing uniform equalized class and commodity scales along with adjustments in other rates so that the whole scheme of uniformity would be established in one sweep. In other words, the Commission appreciated that this could not be done, although it is clearly established that the trend towards the goal of uniformity by reasonably graded steps is considered by all concerned, as far as may be possible, to be the goal to which all concerned should be directing their attention.

The Board of Transport Commissioners by Order-in-Council P.C. 1487 was instructed to enter upon a General Investigation of Freight Rates in Canada designed to develop certain complaints and allegations respecting the rate structure with the view to making such adjustments as would be proper under the powers and the jurisdiction of the Board. As a preliminary to the hearing stage of this Investigation, certain studies were necessary which the Board's staff and Bureau of Economics was directed to undertake. One of the principal matters considered was a waybill study involving the freight traffic tonnage and revenues of the Canadian National and Canadian Pacific Railways moved on certain specified days as the basis of estimated calculations for longer periods so that the Board and the railways would be able to determine more accurately not only the situation existing under the present freight rate tariffs but also the effect of the establishment of a uniform scale of class rates and mileage commodity rates on the revenue position of the railways.

As a preliminary to the development of evidence respecting a uniform class rate scale the Board required the railway companies to file such information as they had prepared, and at a hearing before the Board on September 10th a document known as "The Railway Association's Study Re Equalization of Freight Rates" was filed and made part of the record in this Investigation. In view of the need for study of this proposal, the Board postponed further hearing until January 10, 1952, at which time it is understood that the railways will submit witnesses to fully develop evidence in respect to the study, and respondents will then be given an opportunity of cross-examining witnesses so that the record may be fully developed with respect to the suggested scale of class rates stated in the study.

Class rates applying under the provisions of tariffs at present in effect provide rates between practically all points in Canada, although varying as to base or level in different territories and therefore not uniform all over the country. Mileage commodity rates, applying according to provisions in tariffs, presently in effect are in a sense more limited as to application territorially but do vary in different territories and are therefore not uniform. In view of these circumstances, the development of a uniform class rate scale would appear, logically, to be the first step, and it would seem that the Board of Transport Commissioners is following this procedure as they have now before them at their request a suggested scale, evidence in respect to which, both for and against, will undoubtedly be submitted, thus giving the Board together with the study that will no doubt be made by its own staff adequate facts to enable it to arrive at a decision authorizing a reasonable uniform class rate scale.

In view of the foregoing situation with respect to class and mileage commodity rates, it is submitted, with the greatest respect, that "other rates" as mentioned in subsection (2) (c) of proposed Section 332A should, as the Royal Commission said, be dealt with after the uniform class and mileage commodity scales have been placed in effect. The question of whether or not such rates could be brought within the sphere of uniformity was described by the Royal Commission as "brought into uniformity insofar as this can be accomplished having regard to all proper interests." Thus it seems quite clear that there is no need at present for the specific reference at subsection 2(c) in respect to "other rates." The Board has without this reference adequate power to deal with the matter, and it is assumed that the Board will deal with the question when the uniform class rates and mileage commodity scales are established in respect to any decision of the Board under the General Freight Rate Investigation involving these matters. The deletion of subsection 2(c) of proposed Section 332A is accordingly requested.

7. Proposed Section 332B.

This Section is an addition to the Railway Act and introduces a statutory maximum rate condition to be applied to intermediate points in respect to what is termed "transcontinental competitive commodity freight rates" applying Westbound and Eastbound between points in Canada East of Fort William and Armstrong on the one hand and certain points in British Columbia on the other. The statutory maximum is described in subsection 2 (a) and (b) as an amount which shall not exceed by more than one-third the competitive toll, this toll being that named in tariffs applying to transcontinental freight traffic which is defined in subsection 1 (d) of proposed Section 332B. The statutory maximum was specifically recommended by the Royal Commission and is described in its report as "a logical and simple solution to the matter, one that is readily calculated and applied." It is submitted, with the greatest respect, that while undoubtedly it is simple and can be readily calculated and applied, there is considerable question as to whether or not it is logical having regard to the principle that all rates should be reasonable and free from unjust discrimination or undue preference.

An examination of the report beginning at Page 96 and terminating at Page 101 fails to reveal any basis for the statutory maximum which without such basis might just as well have been set at some other figure.

The principal complaint with respect to the present provisions of the Railway Act and the interpretation by the Board of Transport Commissioners was made to the Royal Commission by the Province of Alberta, and at Pages 97 to 99 inclusive of the report the matter is discussed and summarized as follows:

Alberta does not deny that the railways when there is active water competition to be met, may publish transcontinental rates, and concludes that rates to Vancouver may in some cases properly be lower than the rate to intermediate points; the real complaint is that the disparity between some transcontinental rates and the rates to the intermediate point is unreasonable.

The remedy proposed by the Province of Alberta is summarized on page 99 of the report as follows:—

The Province of Alberta submitted that the Board should regularly examine the conditions lying behind transcontinental tariffs and that it should not permit such rates unless (a) competition is active, compelling and beyond the control of the railways, and is present at the competitive point and absent at the intermediate points; (b) the rate to the competitive point is no lower than necessary to meet the competition which is present there; (c) the rail rate to the competitive point is such that the

net earnings would be greater than they would be in the absence of such rates, and (d) that the rate to the intermediate point is just and reasonable under the circumstances. Alberta proposed an amendment intended to bring about this result.

In the Conclusion at page 100 of the report there is stated, among other things, the following:—

To apply transcontinental rates as a ceiling to intermediate points would in effect be placing such points as Calgary and Edmonton at the sea coast for rate purposes. Alberta does not suggest that extreme remedy. It says in effect that if a low rate is established to the sea coast then the rate to intermediate points such as Calgary and Edmonton should not be higher than a fair and reasonable rate established by comparison. This, according to Alberta, means that if the railways can make large reductions in a rate direct to the sea coast, on a basis related to the lower cost of steamship service and still make some profit, the rate to the intermediate points such as Calgary or Edmonton cannot be twice as high as the rate to Vancouver, without indicating an exorbitant profit.

The United States conditions under the Interstate Commerce Act and rulings of the I.C.C. on similar movements in that country are briefly summarized as follows:—

A similar situation was dealt with in the United States by denying all long and short haul relief to the American railways, so that if they desire to participate in transcontinental traffic they must apply the transcontinental rate as a maximum to intermediate points.

Finally after indicating that the United States course was not called for, no doubt because of its recommendation for the statutory maximum, the last paragraph states as follows:—

Such a course is not called for here; it would probably result in the cancellation of some transcontinental rates from Eastern Canada to the Pacific Coast on which the railways have heretofore been afforded statutory protection, and on which communities in the Pacific coastal area have relied for many years—the low rates on Iron and Steel, for example. The railways might not desire to apply low coastal rates to the intermediate points (especially if the traffic were in greater volume to such intermediate points) and might in the face of a prohibitory “intermediate point” rule, decide to cancel the low rates to the Coast.

The foregoing review of the Alberta complaint and the position taken by the Royal Commission indicates that users of railway services under the present system are at a disadvantage when attempting to establish violations of the long and short haul clause (Section 314 (5) of the Railway Act) because the pertinent facts necessary to support a case before the Board are not readily available. On the other hand, the railways have or can develop quite readily information to support applications which they may make seeking relief from the long and short haul clause of the Act. Consequently, it does appear that as the principle in respect to regulation of railway freight rates is that rates must be reasonable and free from unjust discrimination or undue preference, the onus should be on the railway companies to show cause why the transcontinental commodity rates should not be applied to intermediate points in accordance with the long and short haul clause of the Railway Act.

The statutory form shown in proposed Section 332B would prevent an adequate determination of whether or not the principle that rates shall be reasonable and free from unjust discrimination or undue preference is being violated because without proper investigation and development of facts no one

can say with any assurance that one-third over the transcontinental commodity rates would result in reasonable rates free from unjust discrimination or undue preference.

The system which this submission has outlined of placing the onus upon the railway companies to apply transcontinental commodity rates to intermediate points unless the Board authorizes relief in particular cases is the same as the system used in the United States where under the Interstate Commerce Act they have a long and short haul clause reading substantially the same as in the Canadian Railway Act but requiring the railways to secure relief before any rates to a more distant point may be assessed at a lower figure than to an intermediate point.

While it is true that the Royal Commission, as previously stated, considered the United States system, they pointed out in the final paragraph of their recommendation "such course was not called for", which presumably meant in Canada. The recommendation then proceeded to state "It would probably result in the cancellation of some transcontinental rates". It is submitted, with the greatest respect, that the probability of the cancellation of some transcontinental commodity rates is present with respect to the statutory form shown in proposed Section 332B as well as the United States system. The rates involved are competitive rates and the railways having established them may remove them subject to compliance with all conditions of the regulatory law, the Railway Act. In respect to this probable action of the railway companies, it may be observed that under the United States system there still remains a substantial number of transcontinental commodity rates and cancellations, changes and additions are being made continually in respect to such rates.

In conclusion we again emphasize that the basic principle that rates must be reasonable and free from unjust discrimination or undue preference should be the guiding light in the determination of whether or not rates to intermediate points shall be no higher than to more distant points in accordance with the long and short haul clause of the Railway Act.

In addition to the changes heretofore mentioned in this submission, there is attached hereto a memorandum which deals with minor changes designed to more clearly convey what is understood to be the intent and purpose of the particular Sections and subsections dealt with. As this memorandum is complete in itself, we merely refer to it here so that it may not be overlooked by the Special Committee dealing with this legislation. With the greatest respect, it may be suggested that this memorandum might be placed in the hands of those who drew up the Bill so that they might give it their attention and take such action as they consider proper.

Canadian Manufacturers' Association Inc.,
Transportation Department,
Toronto, Ontario,
November 19, 1951.

MEMORANDUM RESPECTING AMENDMENTS DESIGNED TO MORE
CLEARLY CONVEY WHAT IS UNDERSTOOD TO BE THE
INTENT AND PURPOSE OF CERTAIN PROPOSED
SECTIONS OF HOUSE OF COMMONS
BILL No. 12

A careful perusal of the proposed enactment contained in the above mentioned bill prompts us to suggest certain minor amendments designed to more clearly convey what we understand to be the intent and purpose of the revisions indicated below:

Section 328 (2):

This proposal provides that "A class rate is a rate applicable to a class rating to which articles are assigned in the freight classification". With due deference it is submitted that this definition should be amplified to read "A class rate is a rate governed by the freight classification or any exception thereto naming a class rating to which articles are assigned". In other words, it is submitted that the definition of a class rate should properly embrace any rate the ascertainment of which requires reference to a class tariff irrespective of where the rating to which articles are assigned is published. It is not uncommon for railways to publish class ratings which are exceptions to the classification on specifically described articles moving within an area either co-extensive with its railway or within a more limited area, in tariffs which in some instances are described as tariffs of 'Special Ratings, Rules and Regulations' and in other, as tariffs of rates on 'Commodities.' In either case, the rates themselves are not contained in the tariffs naming such class ratings and to ascertain same reference is required to the regular class rate tariffs. Such exception ratings therefore would not fall within the proposed definition of a 'Commodity' rate as set out in subsection 3 of section 328, reading: "A commodity rate is a rate applicable to an article described or named in the tariff containing the rate" as the rate itself, as previously indicated, is not contained in the tariff naming the class rating. Accordingly, if the description of a class rate is not broadened as suggested herein, class rates governed by a class rating authorized in a tariff as distinguished from the freight classification would neither fall within the definition of a class rate as proposed in subsection 2 nor the definition of a commodity rate as proposed in subsection 3 of this section.

Section 332 A:

Subsection 3 of this section, empowering the Board to disallow any tariff or portion thereof that it considers to be contrary to the National Freight Rates policy, paraphrases in a substantial degree the language appearing in section 325 (1) of the Act. If the wording of the latter subsection is not considered broad enough to vest in the Board the power to disallow a tariff which it deems to be in contravention of the national freight rates policy, it would seem more appropriate to amend section 325 (1) of the Act to read: "The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to the national freight rates policy or any of the provisions of this Act . . ." so that the powers of the Board with respect to disallowance of freight tariffs may be confined in one section and avoid unnecessary duplication of wording.

Section 332 B:

The definition of "western territory" in subsection 1 (b) of this section defines it as "Any point on a line of railway in British Columbia to which competitive transcontinental toll apply." Inasmuch as transcontinental freight traffic is defined in subsection 1 (d) of this section as "Freight traffic (i) having its origin in eastern territory and its destination in western territory". . . "it would appear to follow that any competitive toll published on traffic moving from a point in Canada east of Port Arthur or Armstrong, Ont., to a destination on a line of railway in British Columbia is a "competitive transcontinental toll". If this premise is correct, we would point out that at the present time competitive tolls are established from eastern territory, as defined, to British Columbia coast points, and these are generally understood and referred to as competitive transcontinental tolls although the word 'Transcontinental' does not appear in the description of the tariff naming same. In a separate general commodity tariff naming commodity rates from eastern territory to destinations in Western Canada, competitive tolls are also established in some instances on commodities of the same description from the same eastern origins to interior destinations in British Columbia which are higher than the competitive toll established to British Columbia Coast points. Under the definition previously mentioned appearing in subsection 1 of this proposed section, these latter rates would also come within the category of 'competitive transcontinental tolls' and therefore these latter competitive tolls to interior British Columbia points would remain unchanged under this enactment although they may be, and are, more than one-third higher than the corresponding competitive rates at present established to British Columbia Coast points. In other instances, however, competitive transcontinental tolls are established from eastern territory to British Columbia Coast points on commodities on which there are no competitive tolls established from eastern territory to interior rail points in British Columbia and under the proposed enactment, so long as such interior points in British Columbia are on a railway subject to the Board's jurisdiction which participates in the competitive transcontinental toll to British Columbia Coast points—assuming this is a proper interpretation of the definition of "intermediate territory" appearing in subsection 1 (c) of this section—such interior British Columbia points would be subject to maximum tolls of one-third higher than the competitive tolls published to British Columbia Coast points. It will thus be seen that under the legislation as proposed, traffic from eastern territory to interior rail points in British Columbia will be treated in different ways depending upon the more or less fortuitous circumstance of whether there is at present published a competitive toll from eastern territory to such interior British Columbia destination.

CANADIAN MANUFACTURERS' ASSOCIATION'S ADDITIONAL
SUBMISSION TO THE HOUSE OF COMMONS SPECIAL
COMMITTEE ON RAILWAY LEGISLATION RESPECTING
PROPOSED AMENDMENTS TO BILL No. 12 OFFERED
BY THE CANADIAN PACIFIC RAILWAY COMPANY

The Canadian Manufacturers' Association in addition to its main submission submits herewith its views with respect to certain amendments proposed by the Canadian Pacific Railway Company in its representation to the House of Commons Special Committee on railway legislation dealing with Bill No. 12 "An Act to amend the Railway Act."

7. Proposed Section 328.

The amendment proposed in respect to subsection (2) of this Section set out in the memorandum attaching to the main submission of the Association is preferred to that offered by the Canadian Pacific Railway Company.

The proposed amendment offered by the Canadian Pacific Railway Company in Subsection (3) setting out, among other things, that a commodity rate is one that is lower than the normal class rate and is applicable only to the commodity or commodities named in the tariff is not quite accurate as it will be found that there are in some cases commodity rates which are higher than the normal class rates. It is accordingly submitted that if the amendment were changed to read "usually lower than the normal class rate," it would comply with the actual situation.

In Subsection (4) a similar criticism to that expressed in connection with the proposed amendment in Subsection (3) is found to exist as there are cases where a competitive rate is not always lower than the normal class or commodity rate. Some of the cases of this character involve consideration of minimum carload weights but the rates themselves are actually higher than the normal class or commodity rate as the case may be. It is accordingly submitted that the proposed amendment offered by the Canadian Pacific Railway Company be changed to read "and is usually lower than the normal class rate or commodity rate."

7. Proposed Section 330.

The proposed amendment offered by the Canadian Pacific Railway Company to Subsection (2) of Section 330 by the addition of the words "be conclusively deemed to be just and reasonable and shall" proposes to establish by statute a condition which it is submitted, with the greatest respect, conflicts directly with proposed Section 332 in the case of advances which requires that the burden of proof shall be on the railway company filing the tariff where an objection is filed with the Board to any tariff that advances a rate previously authorized to be charged. It is in conflict with the whole system of rate regulations at present in effect which aside from standard tariffs required to be approved by the Board leaves all other tariffs in the position that they are always subject to action by the Board on its own motion or complaint by shippers or others contending that such rates do not comply with the condition that they are reasonable and free from unjust discrimination or undue preference. In view of these circumstances, it is submitted that the proposed amendment should not be adopted.

Canadian Manufacturers' Association,
Transportation Department,
Toronto, Ontario, November 19, 1951.

APPENDIX "B"

SUBMISSION BY THE CANADIAN INDUSTRIAL TRAFFIC LEAGUE
ON HOUSE OF COMMONS BILLS 12, 6 AND 7

Toronto, Ontario

November 19, 1951.

The Canadian Industrial Traffic League wishes to take this opportunity of presenting to the Special Committee on Railway Legislation the views of its member companies on the legislation proposed in House of Commons Bills Nos. 12, 6, and 7.

We had expected to present our submission to the Committee and to hold ourselves available for questioning by the members. It was our hope that, by being questioned, we could bring before the members of the Committee in the most effective manner available to us the viewpoint of those who directly pay the freight charges, a viewpoint which attempts to be free of regional thinking.

The Committee on November 16th decided to restrict representations to be heard to the Railways and the Provincial Governments. Therefore, no other course is open to the League now but to submit its views in writing in the hope that they will be given the same careful attention which they would have had, had it been possible to present our submission orally.

The League, which has been in existence since 1916, is the national organization of industrial traffic managers and its members are located across Canada. The object of this organization can be briefly summarized as the desire to develop a thorough understanding of the transportation requirements of industry and commerce and to promote, conserve and protect commercial and transportation interests.

The legislation proposed in Bills 12, 6 and 7 has been brought to the attention of our member companies and comments thereon have been received from them. The ensuing remarks constitute a compendium of our members' views. The Committee will understand, of course, that any individual member company of the Canadian Industrial Traffic League may wish to make representations elaborating on or differing from the remarks expressed by the League as a whole.

The method adopted in this presentation to the Special Committee is that of an *ad seriatim* discussion of the clauses contained in the several Bills.

Bill 12

1, 2, 3.

The League has no comments to make on the changes proposed in these clauses.

4.

Section 52

The amendment of the Railway Act here proposed is the repeal of Subsections 2, 3 and 4 of Section 52 and the substitution therefore of new Subsections 2 and 3 removing the necessity for appellants from the Board of Transport Commissioners for Canada on a question of law or one of jurisdiction to obtain leave from the Board before an appeal can be made to the Supreme Court of Canada.

It is, furthermore, our firm belief that it is not desirable to require an appellant to obtain leave to appeal from the very body by which the decision occasioning the appeal was made.

5. Section 323

The change proposed here is the repeal of Subsection 6 of Section 323 of the Railway Act and the substitution therefor of a revision which would subject the provisions surrounding the filing, publication and inspection of all tariffs of tolls entirely to the regulations made thereon by the Board of Transport Commissioners. Heretofore, only tariffs of tolls other than those specifically mentioned in the Act were subject to the Board's regulations, concerning filing, publication and inspection. The conditions under which tariffs mentioned in the Act are presently being filed, published and kept open for public inspection are outlined in Sections 330, 331, and 332.

The comment on the change envisaged in Subsection 6 of Section 323 of the Act states that "the amendment is required by amendments contained in Clause 7 of the Bill". We presume that this has reference to the change proposed in Section 330. Since the League has very grave objections to the latter change which will be set out in full in the discussion of proposed Section 330, we respectfully suggest to the Special Committee that Subsection 6 of Section 323 of the Act be allowed to continue without change.

6. Section 325

The alteration in Subsection 3 of Section 325 of the Act is required, as stated, by the new terminology regarding tariffs which is the result of amendments contained in Clause 7 of Bill 12. We are in agreement with this change.

7. Section 328

Dealing first with the revision of Section 328 of the Act, the League welcomes the new terminology respecting tariffs which conforms to descriptions which are commonly used in transportation circles. This is covered by (a), (b), (c), and (d) of subsection (1).

However, we recommend the following changes in the definitions of the various tariffs which appear in Subsections (2), (3), (4) and (5) of proposed Section 328:

(2) *Class Rates:*

"A class rate is a rate applicable to a class rating to which articles are assigned in the freight classification or any exception thereto."

(3) *Commodity Rates:*

"A commodity rate is a rate lower than a class rate and applicable to an article described or named in the tariff containing the rate."

(4) *Competitive Rates:*

"A competitive rate is a class or commodity rate that is issued to meet the exigencies of competition."

(5) *Special Arrangements:*

"Special arrangements are charges, allowances, absorptions, rules, and regulations covering all accessorial or special arrangements that in any way increase or decrease the charges to be paid on any shipments or that increase or decrease the value of the service provided by the company."

The League recommends that Subsection 5 of proposed Section 328 be amended along the lines set out above.

Section 329

Section 329 sets out what class rates are to specify. We note that the Canadian Pacific Railway Company offers an amendment of Paragraph (a) of this Section designed to allow the railways to publish more than one class rate tariff. (P. 68 Minutes of Proceedings and Evidence No. 2.) While the language of proposed Section 329 is not clear, it does, in our submission, under a strained interpretation, permit the publication of more than one class rate tariff under Paragraph (a). It will be noted that the introductory words are "class rate tariffs", and not "the class rate tariff" as stated by Mr. Spence at page 66, Minutes of Proceeding and Evidence No. 2. Having used the plural "tariffs", Paragraph (a) of Section 329 then continues "shall specify class rates on a mileage basis for all distances covered by the *company's* railway, etc." It should now be noted that the word "company's" is used in the singular, thus leading us to believe that the draftsman envisaged the existence of more than one class rate tariff under the provisions of Paragraph (a) of Section 329. If that had not been the intention, then, in our submission, the governing words at the beginning of the clause should have been "the class rate tariff", as suggested by Mr. Spence. In that case also, the words "class rate tariffs" could have introduced Paragraph (b) of Section 329. We do not agree with the proposed C.P.R. amendment but, in our opinion, the language used in Subsection (a) of Section 329 is ambiguous and susceptible to misinterpretation and should be clarified. We suggest that Section 329 (b) be amended by deleting the words "higher or" for the reason that class rates between specified points should not exceed the class rates on a mileage basis which are mandatory under Section 329 (a).

Section 330

As pointed out when commenting on the proposed change in Subsection 6 of Section 323, the Canadian Industrial Traffic League has very grave objections to the removal of the statutory requirements which presently surround the filing, publication and posting of freight tariffs. Such a removal is inherent in proposed Section 330. Briefly, the present procedure in these matters may be summarized as follows: (References to the appropriate sections of the present Act are given in brackets).

- (i) Standard Freight Tariffs (330): To be filed with Board of Transport Commisisoners; then to be published in two consecutive weekly issues of the Canada Gazette.
- (ii) Special Freight Tariffs (331); To be filed with the Board of Transport Commisisoners, indicating the date of issue and the date on which they are intended to take effect. Special tariffs reducing a rate or rates shall be filed and published at least 3 days before the effective date of such a reduction. Where a Special Tariff advances a rate or rates, it shall be published at least 30 days before the effective date of the advance.
- (iii) Competitive Tariffs (332): To be filed with the Board, specifying the date of issue and the date on which they are intended to take effect. The Board may make rulings and regulations allowing carriers to increase the speed of placing such tariffs into effect where the exigencies of a competitive situation demand such action.

The Board of Transport Commissioners, on the basis of these statutory requirements, has made rules and regulations respecting the filing, publication and inspection of freight tariffs. It should be noted that the framework within which such regulations could be made was given by the provisions of the Railway Act itself. It should also be noted that the Railway Act permits considerable flexibility for such situations which may require departures from the established procedure.

Other than the obvious need of changing the language of Section 330 to bring it into conformity with the new descriptions of tariffs contained in proposed Section 328, the League is unable to see why these statutory safeguards should be taken away from the users of railway services.

The procedure envisaged by proposed Section 330 would make the filing, publication and posting of a tariff solely subject to the "regulations, orders and directions of the Board." Such a tariff would then become effective unless otherwise directed by the Board, "on the date stated in the tariff as the date on which it is intended to take effect."

While it is fully appreciated that the Board may continue to use the present method under which these matters are being dealt with (specifically the requirement of 30 days' notice in the case of advances in Special Freight Tariffs), the situation might conceivably arise where the Board's regulations may allow the railways to make drastic changes overnight.

With the complexity of some of such changes and their possibly far reaching effects, our member companies view with alarm even the remotest possibility of losing their present right to study rate advances in particular for the period of 30 days. Under this statutory safeguard there is at least time to evaluate coolly a situation which may arise; there is time to obtain clarification from the railways; there is time to prepare, without undue haste, a summary of one's views and to give the Board, if such become necessary, a statement of objections which has had mature consideration. Assuming that proposed Section 330 should become law and the Board decide, at any time, to decrease the period of notice of rate advances to 5 days, what might be the result? First: a large number of shippers might not obtain knowledge of such advances until well after they have become effective. The result would be considerable hardship for industry and commerce. Second: there would not be time to discuss with the railways, and possibly modify in such discussions, the matters involved. Third: there may be the strong possibility that a larger number of cases may be taken to the Board of Transport Commissioners, increasing the burden on that body.

In order to avoid these difficulties, the League respectfully suggests a rewording of proposed Section 330 along the following lines:

330 (1) Every Class Rate Tariff, Commodity Rate Tariff and every Special Arrangements Tariff shall be filed with the Board and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

(2) When any Class Rate Tariff, Commodity Rate Tariff or Special Arrangements Tariff reduces any toll previously authorized to be charged under this Act, the Company shall file and publish such tariff at least 3 days before it is intended to take effect.

(3) When any Class Rate Tariff, Commodity Rate Tariff or Special Arrangements Tariff advances any toll previously authorized to be charged under this Act, the Company shall file and publish such tariff 30 days before it is intended to take effect.

(4) For the purpose of this Act a Class Rate Tariff, Commodity Rate Tariff or a Special Arrangements Tariff shall be deemed to have been published when, in addition to having been filed with the Board, it shall have been open for public inspection during normal business hours at every station or office of the company where freight is received, or to which freight is to be carried thereunder, for at least three days prior to the effective date thereof in cases of reductions in tolls and 30 days prior to the effective date thereof in cases of advances in tolls; provided that the Board may by regulation or otherwise determine any other or additional method of publication of such tariffs during the periods aforesaid.

(5) When the foregoing provisions have been complied with any freight tariff shall, unless disallowed, suspended or postponed by the Board, take effect on the date stated in the tariff as the date on which it is intended to take effect, and shall supersede any preceding tariff, or any portion thereof, insofar as it reduces or advances the tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the Board or is superseded by a new tariff, charge the tolls as specified therein.

(6) The foregoing provisions shall apply in like manner to all supplements or amendments to freight tariffs which the Board may authorize the company to make."

The League, on behalf of its member companies respectfully recommends that a rewording of Section 330 along the lines suggested herein would do much to assure the shipping public of Canada of their right to be advised in advance of any important rate changes by which they may be affected.

Section 331

Section 331 sets out the provisions surrounding the filing of competitive rates. By and large, the proposed section puts into statutory form and enlarges upon certain regulations which are presently contained in Rule 17 of the Board's Tariff Circular No. 1 prescribed by General Order No. 669, dated December 21st, 1944. The League notes that the language used throughout this Section is permissive rather than mandatory. The League feels strongly that the Board should be left as much discretion as possible to deal with competitive rates.

For this reason, the League respectfully suggests that certain changes be made in Subsection 2 of proposed Section 331. In our opinion, that section as it now stands in Bill 12 would tend quite unnecessarily to define the type of information required by the Board before the approval of a competitive rate.

We are convinced that the language of Subsection 2 of proposed Section 331 can be so changed as to give effect to the desires of those who wish the Board to develop as much information as possible before a competitive rate is approved and, at the same time, avoid the dangers inherent in too detailed a statutory enumeration of the duties of a regulatory tribunal.

We, consequently, propose the following change in Subsection 2 of proposed Section 331:

(2) The Board may require a company issuing a competitive rate to furnish at the time of filing the rate, or at any time, any information required by the Board to establish that

- (a) exigencies of competition should be met
 - (b) the rates are compensatory; and
 - (c) the rates are not lower than necessary to meet the competition;
- and such further information as the Board in any case deem practicable and desirable.

Section 332

Section 332 as proposed in Bill 12 is taken from present Section 331 (3) and continues an existing practice insofar as Class Rate, Commodity Rate and Special Arrangements Tariffs are concerned. The League endorses the principle that the burden of proof justifying rate advances shall be upon the company filing the tariff in which such advances are contained.

Section 332A

The Canadian Industrial Traffic League welcomes the principle of embodying in one concrete section of the Railway Act a National Freight Rates Policy, as has been done in proposed Section 332A.

The League notes with satisfaction that the language used in Subsections 2, and 3 of proposed Section 332A is permissive rather than mandatory to the Board and, together, with provision (f) of Subsection 4 may retain a certain amount of flexibility in a field where rigidity may prove detrimental.

Section 332B

Proposed Section 332B is an effort to deal with the problem of applying transcontinental competitive rates to intermediate points in some fashion.

The League is fully aware of the arguments which are set out by the Royal Commission on Transportation at pages 96-101 of its report.

In finding itself in disagreement with proposed Section 332B of Bill 12, the League wishes to emphasize that it is not opposed to the principle of giving some measure of relief to those intermediate points which feel themselves at a disadvantage by reason of any given transcontinental competitive rate.

Our concern is, primarily, with Subsection 2 (b) of proposed Section 332B which would establish a specific maximum to intermediate points over a transcontinental competitive rate. This Subsection would, in effect, decree rates by statute, although such rates are not named specifically.

We have repeatedly in the past warned against the principle of statutory rate-making which the member companies of this League condemn as basically unsound because it does not allow the flexibility which should underly, to a large extent, a freight rate structure of a dynamic economy. We cannot escape the compelling observation that whenever statutory rates have been made in Canada, they have resulted in disagreements and dissatisfaction, accompanied by constant endeavours to have such rates changed or eliminated altogether.

We believe that it is the sincere wish of all who have an interest in our transportation system to avoid such difficulties which, in our opinion, will almost inevitably arise if proposed Section 332B becomes law.

We strongly recommend to the Committee that further study be given to the method of dealing with this problem which has been evolved in the United States under what is commonly known as "Fourth Section Relief". In brief, as applied to transcontinental rates this requires that the railways make such rates applicable to intermediate points unless the Interstate Commerce Commission grants their application to do otherwise. It is quite conceivable that a complete adoption of the U.S. system may not be found to be feasible.

The League feels constrained, however, to suggest that a modification thereof may be a better solution of the problem than that proposed in Section 332B of Bill 12.

8 and 9.

The League has no comments on these clauses which are necessary because of amendments in previous sections.

10.

The League is in agreement with this clause.

11.

The League has no comments on the repeal of these Subsections which is necessary, in part, because of changes in the description of passenger tariffs. Our comments regarding the posting of tariffs were given in the discussion of proposed Section 330.

12, 13, 14.

The League has no comments upon these proposed changes.

15.

We welcome the inclusion of new Sections 380A and 380B in the Railway Act. As far back as June, 1944, the Canadian Industrial Traffic League in

its "Canadian Transportation Policy", a submission made to Federal and Provincial Governments had this to say on the subject of accounts: "Each carrier should be required to keep accounts on some prescribed system and reports be issued to appropriate authority on a uniform basis. This is necessary so that the authority may have sufficient statistical data available properly to exercise its functions."

16, 17.

We have no comments on the changes proposed in these clauses.

18.

We have no comments on this section for the present.

II

BILL 6

1.

The Canadian Industrial Traffic League has, in the past, pointed towards the advisability of strengthening the Canadian National-Canadian Pacific Act, 1933.

The addition of proposed Section 14A would, we believe, be in the direction of this goal by providing Parliament, through the C.N.R. Annual Report, with information concerning cooperative projects between the railways.

III

BILL 7

The League has no comments on the proposed revision of the Maritime Freight Rates Act.

In conclusion, the Canadian Industrial Traffic League wishes to express to the Special Committee on Railway Legislation its appreciation for the opportunity of contributing the views of the League's member companies, who are among the principal users of railway services in Canada, on Bills 12, 6, and 7.

Respectfully submitted,

THE CANADIAN INDUSTRIAL TRAFFIC LEAGUE

H. A. MANN,
General Secretary

Dated at Toronto, Ontario
November 19th, 1951.

APPENDIX C

CANADIAN FRUIT WHOLESALERS' ASSOCIATION

Traffic Department, 49 Wellington St. E., Toronto, Empire 4-7794

19th November, 1951

Mr. HUGHES CLEAVER, M.P.,
Chairman, Special Committee on Railway Legislation,
House of Commons,
Ottawa.

Dear Sir:

The Canadian Fruit Wholesalers' Association is composed of some two hundred and fifty members of the Wholesale Fruit and Vegetable Industry located in all ten provinces of Canada. These members fulfill a vital function in the distribution of these important commodities which are essential to the health and well being of the people of Canada.

This distribution likewise is of paramount importance to the Agricultural Industry, i.e. to the growers and shippers.

Efficient and economical transportation plays a major part within this function, and is of great concern to our members.

Because of the nature of the commodities themselves, the differences in growing seasons and crop yields and the variations in the kinds and quality of supply in the producing regions, together with fluctuations in demand on the consuming markets, a certain degree of flexibility or elasticity in freight rates and rate making procedure is considered extremely beneficial.

It seems to us that some of the proposed revisions to the Railway Act as embodied in Bill Number 12 could have the effect of imposing a serious rigidity upon two very important features of the freight rate structure, both as at present and for the future, at least as they pertain to our Industry. We have reference particularly to Sections 331 and 332A and their application to "competitive" and "commodity" rates respectively.

Accordingly it would be our recommendation that proposed Section 331 be amended by changing the sub clauses of subsection (2) to read:

- (a) the competition actually or potentially exists;
- (b) the rates are compensatory, and
- (c) the rates are not lower than necessary to meet the competition

and such shall include all or any information deemed desirable or necessary by the Board.

(This would involve the elimination of various sub clauses in paragraph (c) of this subsection (2))

and that Section 332A be amended by the inclusion within subsection (4) of a further clause, excepting from the application of subsections (1) (2) and (3) "*commodity rates, other than mileage scales*".

Subsection (2) (a) of Section 331 requires evidence that competition actually exists, whereas with respect to Fresh Fruits and Vegetables with their seasonal movements and other variable factors, it could well be only potential at the time being—When it does become actual it might be too late for any action on the part of the rail carriers.

Clauses (i) and (ii) Subsection (2) and (C). The name of the carrier and the route may not be available, as much of this traffic is or can be handled by private carriers, or others offering at the time.

Clause (iii) Subsection (2) (C). Proof of the rates actually charged or to be charged could be difficult to obtain, because of the lack of publication of rates of some carriers, and the movement by private carriers.

Clause (iv) Subsection (2) (C). There may have been no tonnage carried by the railway. The movement, whole or in part, might be new, or potential.

The section seems to be directed solely towards competition from other transport agencies and makes no provision as to "market" or "commercial" competition. Will the section as proposed prohibit or discourage recognition of this important consideration in rate making? It would seem this type of rate by its nature could not be subject to the particular information required under the section. We feel this is very important as market competitive rates are of much value in the marketing of our commodities.

For example, the Canadian railroads recently made an adjustment in rates on apples from British Columbia to the Eastern Canadian markets. While not familiar with the actual considerations, there is no doubt this type of competition entered into them, because Washington apples could have been brought in and probably undersold them. The carriers then provided a proportionate reduction from the Maritime Provinces to assist in placing their apples on the same markets.

Section 332A declares the National policy requiring that "all freight traffic" with certain exceptions, be charged tolls at the same rate or scale, and requires the establishment of uniform scales of mileage, class and commodity rates.

Much traffic moves on commodity rates, which are not necessarily related to mileage, and as there is no exception in Subsection (4), it is assumed the requirement of uniformity will apply to this type of commodity rate.

This seems to us almost impossible of accomplishment as there are so many variable factors other than distance involved. We think the effect will be that the carriers will be very reluctant to publish such rates, or to continue in effect present ones, to assist in moving our crops, as to do so presumably would require the application of the same scale any where on demand, with possible serious effects on their revenue.

In our larger markets at least the law of supply and demand still operates, though modified by a so called saturation point of price beyond which consumer demand will drop. The variable destination market values are governing and consequently the "value of service" factor is important and almost a controlling one. Our departmental offices are continually quoting rates to our members where it is the predominant one and governs whether or not that particular movement takes place.

There are other factors which vary with the particular territory or market, such as volume of movement, loading characteristics, return movement, empty or otherwise, of special refrigerator cars, etc. Too rigid a requirement would nullify the consideration of these. The publication of the same rate from different shipping points within the same producing territory to the same destination presumably would not be permitted.

These rates are put into effect to meet conditions as they arise, and with the ever changing picture of to-day, flexibility is desirable. While the royal commission report does not deal extensively with these rates, it does seem to recognize the difficulty as its recommendation, page 126, is that the Board should *endeavour* to have them uniform as far as possible, having regard to all proper interests.

From our experience, insofar as our industry is concerned, we feel that competitive rates and specific commodity rates form an important part of our rate structure, and anything that would tend to eliminate or discourage them could have serious results in the marketing operations of both the producers and the distributors.

On the contrary, it is our thought that attempts should be made to facilitate the speedy accomplishment of "commodity" or "competitive" rate adjustments, with whatever safeguards are deemed practicable.

For these reasons, we respectfully urge the amendment of these two particular sections as suggested, or along some similar line.

As to Section 332B dealing with Transcontinental rates, while our interest at the moment may be an academic one, it seems the principle of a fixed percentage as proposed would add to the rigidity of the structure and it is conceivable that developments might demand the application of the same measure to other competitive rates. It is interesting to note that this principle was adopted and later abandoned for some reason by the Interstate Commerce Commission in the United States, some thirty-five years ago. (See 4th Section Order No. 124—June, 1911, etc.) Some other procedure might be preferable.

Respectfully submitted,

The Canadian Fruit Wholesalers' Association
T. M. KIDD,
Traffic Manager.

TMK/W

Appendix "D"

THE MONTREAL BOARD OF TRADE

Montreal, November 14, 1951

The Chairman,
Special Committee on Railway Legislation,
House of Commons,
Ottawa, Ontario.

Dear Sir:

The Council of The Montreal Board of Trade has examined Bill No. 12, an Act to Amend the Railway Act, and wishes to make known its views on the following Sections of this Bill:
Section 329

It appears that this Section would require railway rates to be based solely on mileage rather than the so called "zone" or "area" system at present in effect.

The "zone" system should not be abolished as the mileage basis would adversely affect Montreal as a shipping point as evidenced by the following:—

SHIPMENTS TO WINNIPEG

Present Rates
(per cwt)

<i>From</i>	<i>1st Class</i>	<i>5th Class</i>
	\$	\$
Montreal	3.88	1.66
Toronto	3.88	1.66

Proposed Rates
under mileage application
(per cwt)

<i>From</i>	<i>1st Class</i>	<i>5th Class</i>
	\$	\$
Montreal	4.38	1.97
Toronto	4.02	1.81

It is evident from the above that under the proposed mileage application, Montreal will be adversely affected to the extent of 36¢ on 1st Class rates and 16¢ on 5th Class rates, as compared with Toronto.

Section 330

Provision is made in this Section for use of discretion by the Board of Transport Commissioners in determining the period of notice to be provided in the event of increase.

This clause should be amended to specifically require statutory notice of 30 days on all increases in freight rates in order to protect the contractual obligations of shippers.

Section 331

This Section has to do with the filing of competitive rates by the railways and it seemingly provides discretionary power to the Board of Transport Commissioners which would be satisfactory.

This requirement, however, which would oblige the railways to furnish detailed information to establish competitive rates, would eliminate the possibility of providing such rates when justified by potential rather than actual competition. It is felt that much of the wording of Section 331 (2) is superfluous and that this Section should only provide that the carriers must furnish the Board of Transport Commissioners with such information as would establish that the proposed rate is necessary to meet actual or potential competition and that the rate reasonably might be expected to improve the carriers net revenue. Section 332B

This Section treats of the application of transcontinental competitive rates to intermediate points.

As with other shippers, there is no opposition to any effort to provide lower rates to any intermediate points. It is felt, therefore, that the transcontinental competitive rates should have intermediate application but that should the carriers require relief from this intermediate application, then such relief should be effected by application of the carriers to the Board of Transport Commissioners rather than by statute as this Section would require.

Yours truly,

I. H. EAKIN,
President.

APPENDIX "E"

TORONTO, November 19, 1951.

Mr. H. CLEAVER, Chairman,
and Members of the Special
Committee on Railway Legislation.
Government of Canada,
Ottawa, Ontario.

Bill 12—An Act to amend the Railway Act.

Gentlemen:

The Board of Trade of the City of Toronto, an organization comprised of approximately 6000 members engaged in all branches of Commerce and industry desires to express its appreciation of the opportunity accorded to all interested bodies to examine the proposed amendments to the Railway Act contained in Bill 12 "an Act to amend the Railway Act" which was introduced in the House of Commons on October 23, 1951, by the Honourable Lionel Chevrier, Minister of Transport.

The proposed legislation it is noted was drafted to implement the recommendations of the Royal Commission on Transportation with respect to the equalization of freight rates by giving the Board of Transport Commissioners broad powers to effect such equalization.

The Board of Trade of the City of Toronto has carefully reviewed Bill 12 and respectfully submits the following observations thereon for the consideration of your Committee:

Section 52—Subsection 2, 3 and 4 appeal to the Supreme Court as to question of Law or jurisdiction by leave of Judge.

It is noted that the effect of this amendment is to transfer the decision as to the question of Law from the Board of Transport Commissioners to a Judge of the Supreme Court. This is a desirable amendment and fully acceptable to this Board. *Section 329.* What class rate tariff to specify.

This requires clarification. Under the terms of the Bill section (332a) the railways may be required to publish a uniform class rate scale on a mileage basis applicable across Canada. It is presumed that if such a scale is established, it will take the place of the present standard mileage rates and all other class rates, including Schedule "A" and distributing class rates, and serve as the maximum scale of rates permitted to be charged by the railways. If this is the case and such a scale is to be published in one tariff, will the class rates between specified points on the railway authorized in subsection (B) which it is specified may also be included in the same tariff supersede and nullify the mileage rates authorized in subsection (A) between those points. The intent should be stated. *Section*

330—1 and 2. Tariffs to be filed and published.

The proposed amendment in this section of the Bill eliminates the statutory protection of filing freight tariffs with the Board of Transport Commissioners at least three days before their effective date, in the case of reductions, and thirty days previous to the effective date in the case of increases. In the opinion of this Board, all statutory protection which shippers and receivers of freight now enjoy

under the present Act should be continued unless provision is made for the payment of reparations. As there is no such provision in the Bill it is suggested that this section be further amended by adding after the words "orders or directions made by the Board," at the end of subsection 1, the words "provided, when any tariff, except competitive tariffs, specified in section 331 of this Act, reduces any toll previously authorized to be charged under this Act, the Company shall file such tariff with the Board at least three days before its effective date; further, when any such tariff advances the toll previously authorized under this Act, except tolls covered by competitive tariffs the company shall in like manner file with the Board and publish such tariff thirty days previously to the date on which such tariff is intended to take effect. No such tariffs shall be amended or supplemented except with the approval of the Board.

Section 331—1 and 2. Filing of Competitive Tariffs.

In the opinion of this Board, the cumulative effect of these proposed regulations will be to hamper and restrict the railways in meeting potential competition. While it is recognized that the wording of this section is permissive, there is apprehension that in practice, and eventually as a result of practice in interpretation the operation of the section may become mandatory. Such legislation, it is respectfully submitted, is undesirable and obviously not in the best interests of either the railways or the users of railway services. The Royal Commission on Transportation has pointed out (page 86) the desirability of preserving the right of the railways to meet competition and has expressed the view that requiring competitive tariffs to be approved by the Board before they become effective would hamper the railways in their efforts to increase their revenue. It may be pointed out, also, that under the present Act, the Board has power at anytime to obtain such information as it may need, to establish the reasonableness of any rate, and, this being so, there would appear to be no practical need for the proposed section.

It is suggested therefore, that subsection (2) of section 331 be eliminated and that the following be substituted therefor:

331 (2) The Board may require a company issuing a competitive rate tariff to meet the exigencies of competition, to furnish at the time of filing the tariff, or at any time, any information which in the opinion of the Board, is required to justify the desired rate.

Section 332 (A) National freight rates policy.

The phraseology of this section is similar in some respects to section 314 (1) of the present Act. It is noted however that whereas section 314 (1) stipulates that "all tolls shall always under substantially similar circumstances and conditions, in respect of all traffic of the same description and carried in or upon the like kind of cars or conveyances, or passing over the same line or route etc." The proposed legislation provides that, "subject to certain exceptions, every railway company shall, so far as is reasonably possible, in respect of all freight traffic of the same description and carried on or upon the like kind of cars or conveyances, passing over all lines or routes, etc."

In this section of the Bill the term "so far as is reasonably possible" has been substituted for under "substantially similar circumstances and conditions." Section 314 (5) of the present Act respecting the duty of the Board provides that "The Board shall not approve or allow any toll which for the like description of goods, or for passengers, carried under substantially similar circumstances and conditions, in the same direction over the same line or route etc." Again section 317 (1) provides that the Board may determine as question of fact whether or not traffic is or has been carried under substantially similar circumstances and conditions, and section 317 (2) provides that the Board may by regulation state what shall constitute substantially similar circumstances and

conditions. Throughout the years the Board of Transport Commissioners have rendered numerous decisions based on that particular condition of the present Act and as no such precedent has been established based on the proposed condition "so far as is reasonably possible" it is respectfully suggested that the proponents of this particular amendment to the Act should be required to furnish a full explanation of the need for the desired substitution and that the term "so far as is reasonably possible" should be properly defined so that there will be no misunderstanding in regard to its meaning.

3324 (2) The Board of Trade of the City of Toronto is certain that the establishment of one uniform equalized class rate scale throughout Canada expressed in mileage distances or in specific rates between all specified points on each railway would be a tremendous undertaking. It is feared however that the introduction of any such scale without modifications to lessen the impact of the change on the commerce of the Country and local conditions will have a far reaching and detrimental effect upon the marketing and distribution of goods and services throughout Canada.

The report of the Royal Commission, Page 125-(5) in its conclusions and recommendations states that the objective of equalization is something which can only be attained after considerable study by the Board and by the railways. Undoubtedly many serious problems are involved. For example, the effect that the proposals may have on railway revenues, on established industries and on trade and market patterns, are matters of the utmost importance, having regard for the large number of rate changes which will be involved.

The development and expansion of our present system of marketing and distribution of goods and services was due in no small measure to the existing freight rate structure. The Royal Commission on Transportation has recommended a number of changes in the Railway Act relating to the regulation of freight rates. Some of these amendments, if carefully drafted, probably would not have any serious results. There are others, however, which, if put into effect in the manner recommended by the Commission, would, it is submitted, have a very serious effect on the economy of the country and possibly lead to such obstruction in the present method of doing business as would be to the detriment of both the public and the railways.

The present freight rate structure which provides parity rates between the territory from Montreal to Windsor and Western Canada has brought about the decentralization of industry. Under the proposed mileage basis, the City of Toronto would have an advantage over Montreal as well as over most of Ontario in shipping to Western points, which in our view would not be a desirable situation from the point of view of public or national interest.

It is because of these considerations that the Board of Trade of the City of Toronto feels constrained in the interests of its members who are users of transportation and we believe, in the national interest also, to respectfully suggest that this section of the Bill, which empowers the Board of Transport Commissioners to provide for equalization of freight rates in Canada should be carefully studied with a view to determining whether or not it would be desirable in the national interest to have the Board bound in advance by statute to order equalization in any manner, specifically prescribed in legislation. Under the present Act the Board has wide powers to inquire into, hear and determine, make orders or regulations and may of its own motion or shall upon the request of the Minister of Railways and Canals, inquire into, hear and determine any matter which, under the Act it is empowered to deal with upon application or complaint (Section 367). The Board is presently engaged in a general freight rates investigation and, such being the case it is our view that the Board should be left free to decide following the conclusion of its investigation, how equalization can best be accomplished with the least possible disturbance to the business of Canada.

Section 332B (2a) Maximum tolls to or from intermediate territory.

This Board questions the advisability of establishing in statutory form the conditions set forth in this proposed amendment. The railways, in our opinion, should be free to meet any competition actual or potential to Pacific Coast points without being obligated to reduce their rates on such traffic to intermediate territory. It is only by their freedom of action to meet such competition that the railways can protect their revenues and at the same time assist Canadian suppliers to meet foreign competition to Pacific Coast territory. In its conclusions on the subject of competitive rates generally, the Royal Commission says on page 86:—

The Railways should neither be denied the right to meet competition, nor, when once they have decided to publish competitive tolls in one area, be forced by law to apply these same tolls to other regions where competition between transportation agencies is non-existent.

It is a matter of record that the transcontinental competitive rates have been established only because the railways were faced with competition actual or potential. It is therefore reasonable to conclude that if the railways are to be compelled to extend the benefits of these competitive rates to points where competition is not involved a principle will have been established which it is feared would have a marked influence on the future publication of such rates. Certainly it is difficult to imagine the railways being willing to publish or maintain rates on a competitive basis to the Pacific Coast if they were compelled by statute to depress their rates on the same commodities to inland and Prairie points where the competition did not exist. In such a situation, it is possible that the railways may have to reconsider their position respecting these rates and in that event it is conceivable that they may be forced to cancel the transcontinental rates and probably be compelled also to review the existing system of publishing competitive rates in the light of the possible general effects such legislation may have on these rates.

Section 342. Posting of tariffs.

In this section of the Bill, Clause 8 repeals subsection one, three and four of section 342 of the present Act, leaving subsection two in effect. This provides that: The company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway, for inspection during business hours. This proposed amendment is consequent on the amendment to subsection (6) of Section 323 which provides that the Board may, with respect to any tariff of tolls make regulations fixing and determining the time when, and the place where, and the manner in which, such tariffs shall be filed, published and kept open for public inspection.

The purpose in retaining subsection (2) of section 342 while repealing subsections one, three and four is not apparent. It is appreciated that the proposed amendment to subsection (6) of section 323 provides that the Board may make regulations respecting the disposition and posting of tariffs of tolls for public inspection and it is possible that the Board may direct the railways to deposit and keep on file at its stations or offices for the convenience of the shipping public copies of all tariffs issued under the Act. However, unless it is so ordered, there would be little point in keeping a Statute requiring that the classification be kept on file at all stations, if, the rates applying to it, and the alternative commodity and competitive rates are not also available.

To safeguard the interests of the shipping public and to ensure that shippers will be aware of the legal rates applicable on their particular commodities,

it is respectfully suggested that consideration be given to adding a further subsection to Clause 2 of the bill to provide that at all agency stations there shall be kept on file open to public inspection during business hours:

1. The current classification.
2. The class rates applicable to the classification.

In addition thereto the railways should keep on file at any agency station, upon application from a shipper or group of shippers who singly or jointly make or receive carload shipments or more than two carloads per annum of any commodity or groups of commodities, all tariffs in effect and to which the railway is a party, which publish rates on that commodity or group of commodities, or to other commodities with which they are in direct competition, this requirement to expire at the end of one calendar year unless the application is renewed prior to the date of termination.

It is respectfully suggested also that as shippers under the present Act have no legal right to receive copies of freight tariffs consideration should be given to incorporating in Bill 12 the provision that any person, as a matter of right, upon application to the railways, shall be entitled to receive any or all tariffs, at cost, on a subscription basis, promptly upon their being filed with the Board.

Respectfully submitted,

J. G. GODSOE,
President

F. D. TOLCHARD,
General Manager.

APPENDIX "F"

VANCOUVER BOARD OF TRADE

805 Marine Building
VANCOUVER, B.C.

Zone 1

NOVEMBER, 14, 1951.

Via Air Mail

The Chairman,
Parliamentary Committee on Transportation,
House of Commons,
Ottawa, Ontario.

Dear Sir:

On October 23, the Minister of Transport, Ottawa, introduced in the House of Commons Bill No. 12; an Act to amend the Railway Act to give authority to the Board of Transport Commissioners to implement Commission recommendations.

We therefore submit the following for your consideration:

1. Freight Rates Equalization:

An Amendment to the Railway Act in Bill No. 12 sets out a new Section (332 A) which indicates the National Freight Rates Policy and empowers the Transport Board to provide for equalization of freight rates in Canada subject to the exceptions set forth.

The Council of the Vancouver Board of Trade favours the principle of general freight rate equalization without exemption, provided, however, that if in the initial stages it is found necessary to exempt Crow's Nest Pass and Maritime Acts provisions, then these exemptions be accepted as a temporary measure and merely as a first step; it being our further recommendation that the same equalization principle shall be applied to non-competitive commodity rates as well as to the class basis.

2. Transcontinental Freight Rates Application:

The recommendation of the Royal Commission in part is quoted herewith:

The influence of any transcontinental rate from the East to the British Columbia Coast should be carried back in the rates to the intermediate provinces (including points in British Columbia east of the coast) on a basis not more than one-third greater than the transcontinental rate to the sea coast. This is a logical and simple solution to the matter, one that is readily calculated and applied; it recognizes the influence on Alberta of inter-coastal competition, but at the same time does not lead to the extreme conclusion that Alberta should have sea coast rates.

Provision has been made for carrying out this basis through incorporation in Bill No. 12 Section 332 B subsection (2) as follows:

Tariffs naming a competitive toll for any transcontinental freight traffic shall provide that

(a) the toll for freight traffic having its destination at a point in intermediate territory, and

i. having its origin at the same point in eastern or western territory,

ii. being of the same description, and

iii. carried in the same direction and under the same conditions and arrangements as to weight and otherwise, as the transcontinental freight traffic for which the competitive toll is named, shall not exceed by more than one-third the competitive toll so named to the point of destination in eastern or western territory, as the case may be, nearest to the point of destination in intermediate territory.

Similarly subsection (2) B takes care of traffic routed in reverse.

The Board is much concerned, as also appear to be the Railways, that if the Commission recommendation, as included in Bill No. 12, is adopted, such losses in revenue would occur to the carriers on traffic to intermediate points that it might be found necessary by the Railways to cancel these transcontinental rates which have been found so beneficial to Vancouver, Victoria, Prince Rupert and other coastal points affected.

An illustration of this rate situation is shown herewith in the transcontinental rate on cast iron pipe from eastern Canada to named Pacific coast points:

Group 1, including Vancouver, Victoria, Prince Rupert and New Westminster:

\$1.12 per 100 lbs. Carload minimum 700 lbs. (Add $33\frac{1}{3}$ per cent to give the rate to intermediate points— $\cdot 373 = \$1.49$ per 100 lbs.).

The rate analysis from eastern Canada on this pipe and the estimated loss in revenue to the carriers is indicated to just three stations which are sufficient for the purpose:

<i>Per 100 lbs.</i>	<i>Dawson Creek, B.C.</i>	<i>Calgary Edmonton</i>	<i>Saskatoon</i>
Present rate	2.61	2.16	1.79
Proposed rate	1.50	1.50	1.50
Revenue loss per carload to carriers	777.00	462.00	203.00
Mileage			
Montreal to	2,655	E2,160 C2,240	1,829

Should the transcontinental rates be cancelled the Commission plan would fail as the intermediate points would be assessed present rates and Vancouver and other coast points be penalized. Another important point—the same proposed rate would be authorized to stations with differences in mileage.

The Council of the Vancouver Board of Trade recommends that this plan be opposed in its entirety.

Your consideration of these submissions is requested.

Yours very truly,

REG. T. ROSE,
Executive Secretary.

**A GENERAL POLICY FOR THE PROVINCE OF BRITISH COLUMBIA
IN THE MATTER OF FREIGHT RATES AND WITH SPECIAL
REFERENCE TO THE RECOMMENDATIONS OF THE
ROYAL COMMISSION ON TRANSPORTATION
AND IMPLEMENTING LEGISLATION**

1. That the National policy with regard to Transportation shall respect the provisions of the British North American Act under which it was intended that all parts of Canada should be treated as segments or parts of one united Nation in all matters of a federal nature, and not as separate countries as has been the case in transportation policies up to this time. The division of Canada into four zones for basic rate-making purposes, recognized by Federal Governments and Transportation Boards for over half a century, has been a serious deterrent to the Unity of the Nation, and a blot on the record of its treatment of its peoples.

2. That the Railways of Canada shall be regarded as elements of National Unity, as serving the Nation as a unit. It should be recognized that it is important to Canada, as a Nation to maintain its own Atlantic Ports and access thereto. It should be remembered that the lines through the Mountains of British Columbia and through Northern Ontario are part of National systems; they serve all parts of Canada. Any difficulties of construction or maintenance, tourist attractions, unproductive territory, costly terminals or highly profitable traffic are all parts of one system, serving one people. In the matter of transportation service for Canada, the maritime ports, the Great Lakes and the Mountains are all a part of Canada.

3. That every section of Canada should enjoy one uniform, class-mileage scale of rates, and such rate scale should be based on the most favorable scale of class-mileage rates now in effect in Canada. For example, if the Ontario-Quebec scale is lower for certain classes and certain mileages, then that should be the basis for the new uniform class-mileage scale. If, in the past the railway Companies considered that the maximum rate which they could charge a Toronto citizen for the carriage of 100 lbs. of first-class freight for 500 miles, was 209, then they should have regarded 209 as the greatest amount that they could charge any man in Canada for the same service. The fact that they had been allowed in the past to charge a higher rate to someone because he lived on a different part of their system, does not now justify an averaging or compromise between the highest and the lowest.

4. That, should the National Government feel that it is in the National interest to provide special rates for some commodity or for some section, then the cost of such special consideration should come out of the Federal Treasury. It should not come out of the "hides" of the Carriers to the point that they are forced to increase their rates to other sections of Canada or on other commodities to make up the shortage. The National Government recognized this principle in the Maritimes Freight Rates Act, and in the special assistance covering feed grains. If it is considered in the National interest that grain and grain products shall be hauled from the Prairie Provinces at special rates (1897 Crowsnest) then that should come from the Federal Treasury and not from other Canadian industries. It must be recognized by everyone that if the Canadian roads were allowed the same rates on grain as apply on grain in United States they would not have required some of the advances recently allowed to them. It becomes rather irritating to the people of British Columbia to contribute through the Federal Treasury to special rates for the Maritimes; to contribute to the Railways high freight charges to make up for low rates in Quebec and Ontario due to "Water and Truck competition" and to further contribute in the form of high rates to make up for the Crowsnest rates, and

then be told for 50 years that we must pay a special sur-tax in the form of the Mountain Differential as well as contributing part of the land grant and the Cash Grant that were given to the Railway in consideration for the granting of the special Crowsnest Rates, no part of which we could ourselves enjoy.

5. That it should be National Policy that every section of Canada shall be treated with reasonable equity in the matter of Commodity rates as well as Standard Class rates.

6. That British Columbia is a Maritime Province and should be entitled to treatment similar to any other maritime Province.

7. That low trancontinental rates to the Pacific Coast must be regarded as concessions to Eastern Manufacturers in that it enables the Eastern manufacturer, that much easier, to compete with Producers in British Columbia. We recognize that the reverse is also true. British Columbia does not object to reasonable trancontinental rates both east and west but does object to any proposal that would allow Eastern manufacturers to ship goods 1500 to 1600 miles for the same cost as a B.C. shipper would pay for the same goods for a distance of 1000 to 1200 miles.

8. That the grant of \$7,000,000, which the Royal Commission recommends be made to the Railways in consideration of the "bridge" in Northern Ontario be regarded as a grant to the Railways against general operating costs. In this way the grant from the Federal Treasury should reflect to the advantage of all peoples of Canada. Why the Commission should have picked out this fairly remunerative section of the trancontinental line to regard as a "bridge" is indeed a mystery. The suggestion of the Commission that "the assistance herein provided will be particularly effective as a measure of relief in the case of charges on *westbound* traffic passing over this bridge" and further that "The Crowsnest pass rates structure provides to a considerable extent, although of course not altogether, for the requirements of traffic eastbound" would certainly lead one to believe that the Commission held the opinion that the people of British Columbia were not even worthy of consideration. The irony of this suggestion must impress itself indelibly on the minds of the people of British Columbia. They were told by the Government and by the Railways for 50 years that they must pay a severe penalty for the "alleged" difficulties of operation through the Rockies, but the people of Eastern Canada are told that because some one has suggested that the line north of the Great Lakes is unproductive, it will in future be regarded as a "bridge" and a subsidy will be paid to the Railways through which they can further assist the people in the province in which the alleged "bridge" exists. A tax in one case,—a subsidy in the other. And the people of B.C. will be asked to provide their share of the subsidy, presumably through income tax. The average per ton haul on goods in Western Canada, is, I understand, considerably greater than that in Eastern Canada. We therefore must assume that the markets for the Manufacturers in say the Pacific Coast, are a much greater distance from the point of production that generally applies in the East. Why is not a subsidy paid to the Railways because of this "bridge" and thus provide "measure of relief in the cases of charges on *Eastbound* traffic passing over this bridge"?

IN THE MATTER OF BILL 12 TO AMEND THE RAILWAY ACT AND
PARTICULARLY AS IT MIGHT AFFECT THE FRUIT AND
VEGETABLE INDUSTRY OF CENTRAL B.C.

The Bill Proposes the repeal of Section 328 of The Railway Act and to substitute new section as follows:

SECTION 328 now reads:

328. The Tariff of tolls which the Company shall be authorized to issue under this act for the carriage of goods between points on the Railway shall be divided into three classes,

- (a) The Standard Freight Tariff;
- (b) Special Freight Tariffs; and
- (c) Competitive Tariffs.

NEW SECTION 328 will read:

328. (1) The Tariff of tolls that the Company is authorized to issue under this act for the carriage of goods between points on the railway are:

- (a) class rate tariffs;
- (b) commodity rate tariffs;
- (c) competitive rate tariffs; and
- (d) special arrangements tariffs.

(2) A class rate is a rate applicable to a class rating to which articles are assigned in the freight classification.

(3) A commodity rate is a rate applicable to an article described or named in the tariff containing the rate.

(4) A competitive rate is a class or commodity rate that is issued to meet competition.

(5) Special arrangements are charges, allowances, absorptions, rules and regulations respecting demurrage, protection, storage, switching, elevation, cartage loading, unloading, weighing, diversion and all other accessorial or special arrangements that in any way increase or decrease the charges to be paid on any shipment or that increase or decrease the value of the service provided by the company.

1. The new designations for the various types of tariff now in common use would appear to be necessary and advisable, except that we really wonder whether or not the special arrangement tariffs have proven to be of such general use and benefit as to warrant their continuation. In our opinion the special rates granted under these special tariffs must surely border on discriminatory treatment to the benefit of a limited number of large interests.

2. It is assumed that "class-rate" tariffs will cover both the standard uniform mileage class-rate tariff and any distributing or "town-tariffs" where classification ratings are used as the basis.

The bill proposes to repeal section 329 of the Railway Act and to substitute a new section as follows:

Section 329 now reads:

329. The standard freight tariff or tariffs, where the company is allowed by the Board more than one standard freight tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the Company's railway.

(2) Such distances may be expressed in blocks or groups, and such blocks or groups may include relatively greater distances for the longer than for the shorter hauls.

(3) The special freight tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway; and greater tolls shall not be charged for a shorter than for a longer distance over the same line in the same direction, if such shorter distance is included in the longer.

(4) The Competitive Tariffs shall specify the toll or tolls, lower than in the standard freight tariff, to be charged by the company for any class or classes of the freight classification, or for any commodity or commodities, to or from any special point or points which the Board may deem or declared to be competitive points not subject to the long and short haul clause under the provisions of this act.

New Section 329 will read:

329. Class rate tariffs

- (a) shall specify class rates on a mileage basis for all distances covered by the Company's railway, and such distances shall be expressed in blocks or groups and the blocks or groups shall include relatively greater distances for the longer than for the shorter hauls, and
- (b) may, in addition, specify class rates between specified points on the railway.

1. It will be seen that the definitions or descriptions of the various types of tariff, mentioned in the old section, have now been described or defined in subsections (2), (3), (4) and (5) of new section 328. New section 329 provides for the new uniform class-mileage tariff of maximum rates to replace the former series of maximum rate scales which included three eastern scales, a lake or water scale, the Prairie scale and the Pacific scale. With the wiping out of Mountain differential the Pacific scale was abolished and the Prairie scale applied in all Western Regions.

2. There would appear to be no objection to this new clause. However, it is important that when this new Tariff or scale is prepared it is not just a compromise between the two present scales. In no case should the new maximum rates exceed the lowest rate now provided as maximum for any section of Canada.

3. It is assumed that Subsection (b) is intended to permit of a combining of the present distributing rates or town-tariff rates with the standard class mileage rates; that is in the same tariff. We would very much prefer that these two types of tariff be kept separate. The distributing or town-tariffs fill a definite place in our transportation set-up, and should specify rates at least 15 per cent below those for similar mileage in the class mileage tariffs. Generally speaking these tariffs cover the carriage of goods from distributing points, and in most cases the carriers will have already received a toll for the carriage of these goods into the distributing point. The distributing rates, therefore, become a part of a total toll.

The Bill proposes to repeal section 330 of the Railway Act, and to substitute a new section as follows:

Section 330 now reads:

330. Every standard freight tariff shall be filed with the Board, and shall be subject to the approval of the Board.

(2) Upon any such tariff being filed and approved by the Board the company shall publish the same, with a notice of such approval in such form as the Board directs in at least two consecutive weekly issues of the *Canada Gazette*.

(3) When the provisions of this section have been complied with, the tolls as specified in the standard freight tariff or tariffs, as the case may be, shall, except in the cases of special freight and competitive tariffs, be the only tolls which the company is authorized to charge for the carriage of goods.

(4) Until the provisions of this section have been complied with, no toll shall be charged by the company.

(5) No standard freight tariff shall be amended or supplemented except with approval of the Board.

New section 330 will read:

330. (1) Every freight tariff and every amendment of a freight tariff shall be filed and published, and notice of the issue thereof and of cancellation of any such tariff or any portion thereof shall be given in accordance with regulations, orders or directions made by the Board.

(2) Where a freight tariff is filed and notice of issue is given in accordance with this Act and regulations, orders and directions of the Board, it shall, unless it is disallowed, suspended or postponed by the Board, take effect on the date stated in the tariff as the date on which it is intended to take effect, and shall supersede any preceding tariff, or any portion thereof, insofar as it reduces or advances the tolls therein, and the company shall thereafter, until such tariff expires or is disallowed or suspended by the Board or is superseded by a new tariff, charge the tolls as specified therein.

1. Old section 330 required the Railways to file with the Board and obtain approval of their standard freight tariff only. The term "standard freight tariff" referred to what we now call the "standard class mileage tariff". The Railways were allowed, under subsection 3, to issue special and competitive tariffs with very little restriction so far as the Board was concerned.

2. The new section requires that every freight tariff and every amendment of a freight tariff shall be governed in accordance with regulations, orders or directions made by the Board.

3. Subsection 2 of this section provides for the disallowance or suspension of commodity tariffs, competitive tariffs or special arrangements tariffs. We approve this additional control by the Board.

The Bill proposes to repeal section 331 of the Railway Act, and to substitute a new section as follows:

Section 331 now reads:

331 Special freight tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

(2) When any such special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall file such tariff with the Board at least three days before its effective date, and shall, for three days previous to the date on which such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of such tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where such tariff is so kept

on file: provided that the Board may by regulation or otherwise determine and prescribe any other or additional method of publication of such tariff during the period aforesaid.

(3) When any such special freight tariff advances any toll previously authorized to be charged under this Act, the company shall in like manner file and publish such tariff thirty days previously to the date on which such tariff is intended to take effect: provided that where objection to any such tariff is filed with the Board, the burden of proof justifying the proposed advances shall be upon the company filing said tariff.

(4) When the foregoing provisions have been complied with, any such special freight tariff, unless suspended or postponed by the Board, shall take effect on the date stated therein as the date on which it is intended to take effect, and the company shall thereafter, until such tariff is disallowed or suspended by the Board or superseded by a new tariff, charge the toll or tolls as specified therein, and such special freight tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, in so far as it reduces or advances the tolls therein.

(5) Until such special freight tariff comes into effect, no such special freight toll or tolls shall be charged by the company.

New section 331 will read:

331 (1) The Board may provide that any competitive rate may be acted upon and put into operation immediately upon the issue thereof before it is filed with the Board, or allow any such rate to go into effect as the Board shall appoint.

(2) The Board may require a company issuing a competitive rate tariff to furnish at the time of filing the tariff, or at any time, any information required by the Board to establish that

- (a) the competition actually exists;
- (b) the rates are compensatory; and,
- (c) the rates are not lower than necessary to meet the competition;

and such information, if the Board in any case deems it practicable and desirable, shall include all or any of the following:

- (i) the name of the competing carrier or carriers,
- (ii) the route over which competing carriers operate,
- (iii) the rates charged by the competing carriers, with proof of such rates as far as ascertainable,
- (iv) the tonnage normally carried by the railway between the points of origin and destination,
- (v) the estimated amount of tonnage that is diverted from the railway or that will be diverted if the rate is not made effective,
- (vi) the extent to which the net revenue of the company will be improved by the proposed changes,
- (vii) the revenue per ton-mile and per car-mile at the proposed rate and the corresponding averages of the company's system or region in which the traffic is to move, and
- (viii) any other information required by the Board regarding the proposed movement.

1. The new section, subsection 2, provides conditions under which competitive tariffs may be issued by the Railways.

2. This subsection 2 appears to us somewhat unnecessarily restricted, in that it empowers the Board to require the Railway Company to establish, before approval of a competitive tariff, that the competition actually exists, and that the proposed rates are compensatory and yet not less than necessary

3. Such a restriction would appear to confirm a policy or principle that the Railways must not be allowed to "lock a stable door until the horse has escaped". If there is one criticism than can be levelled against the carriers, it is that during the past twenty to twenty-five years they have failed to meet competition until their competitors were well established, and then it is usually too late.

4. However, the section does appear to make it optional with the Board as to what they may require before approving a competitive rate, and it might be well to emphasize, in any discussion of this section of the Act, that the Board should allow the Railways considerable tolerance in this matter of meeting legitimate competition.

5. We do not feel that the Railways or the Board can point to many cases in the history of Canadian transportation where the carriers have not increased their gross revenue by meeting competition. It is, further, our opinion that there is a very close relationship between gross revenue and nett revenue to the carriers.

6. There are plenty of instances where the carriers have failed to take the necessary steps, in the form of a small rate concession, to retain the valuable traffic until truck-lines have become well established, and once the truck-lines are well established, it requires a substantial rate reduction to recover even a portion of the traffic.

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It is proposed to add a new section to the Act, to be designated as Section 332B, to read as follows:—

332B (1) In this section

- (a) "eastern territory" means any point on a line of railway east of Port Arthur, Ontario, or Armstrong, Ontario;
- (b) "western territory" means any point on a line of railway in British Columbia to which competitive transcontinental tolls apply;
- (c) "intermediate territory" means any point between eastern territory and western territory on any line of railway; and
- (d) "transcontinental freight traffic" means freight traffic
 - (i) having its origin in eastern territory and its destination in western territory, or
 - (ii) having its origin in western territory and its destination in eastern territory.

(2) Tariffs naming a competitive toll for any transcontinental freight traffic shall provide that

- (a) the toll for freight traffic having its destination at a point in intermediate territory, and
 - (i) having its origin at the same point in eastern or western territory,
 - (ii) being of the same description, and
 - (iii) carried in the same direction and under the same conditions and arrangements as to weight and otherwise, as the transcontinental freight traffic for which the competitive toll is named, shall not exceed by more than one-third the competitive toll so named to the point of destination in eastern or western territory, as the case may be, nearest to the point of destination in intermediate territory;
- (b) the toll for freight traffic having its origin at a point in intermediate territory, and
 - (i) having its destination at the same point in eastern or western territory,
 - (ii) being of the same description, and

- (iii) carried in the same direction and under the same conditions and arrangements as to weight and otherwise, as the transcontinental freight traffic for which the competitive toll is named, shall not exceed by more than one-third the competitive toll so named between such point of destination and the point of origin in eastern or western territory, as the case may be, nearest to the point of origin in intermediate territory.
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1. Subsection 2A provides for a wide range of reductions on shipments from eastern territory to points in western Saskatchewan, Alberta and eastern B.C. However, because of the boundaries of the various territories there is little or no compensating reduction in rates from western territory to the eastern territory.

2. It will be observed that eastern territory, as defined in section 1A, comprises all points on all railway lines east of Port Arthur, Ontario, or Armstrong, Ontario, whereas western territory comprises only those points on the Pacific Coast line of British Columbia, and extending east as far as Chilliwack in the lower mainland.

3. Section 2A will require a reduction in the rates on westbound traffic to practically all points in British Columbia (other than those named in western territory) all of Alberta and quite a proportion of western Saskatchewan. While these reduced rates may not be any lower or as low as the rates out of western territory points to the same destination, this clause has the effect of greatly reducing the preference which Pacific Coast manufacturers have enjoyed in the past, and to which they still feel they are entitled.

4. It so happens that the eastbound rate to Winnipeg is not much higher, at the present time, than it would be under the operation of clause 2A and for the reason that transcontinental rates apply eastbound to all main points in Ontario and east, and there is very little market in that section of northwestern Ontario which might obtain lower rates under clause 2A.

5. The fruit and vegetable canning industry of British Columbia is submitting a separate brief, showing how this clause would adversely affect that industry. We believe many other industries in British Columbia would be similarly affected; but their goods, at present, are in short supply; there is a seller's market and they do not appear to worry about the eventual effect of this clause upon the commodities they manufacture.

L. R. STEPHENS,

*Secretary, Okanagan
Federated Shippers Association.*

GOVT PUBNS

BINDING SECT. JUL 2 1980

